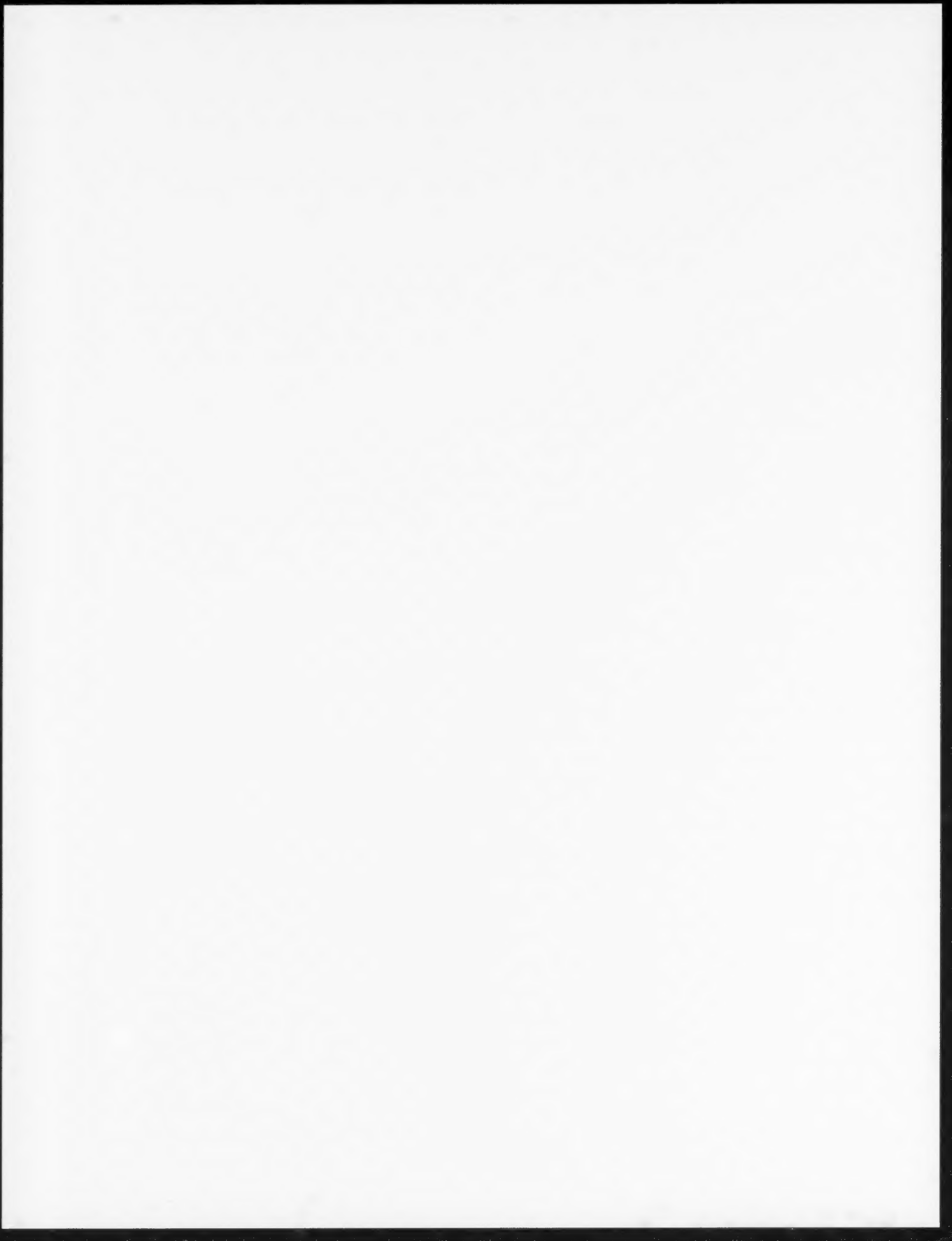


Office of the
Police Complaint
Commissioner



2011
Annual Report

British Columbia, Canada





Office of the
Police Complaint Commissioner

British Columbia, Canada

Speaker of the Legislative Assembly
Suite 207
Parliament Buildings
Victoria, BC V8V 1X4

Dear Mr. Speaker:

It is my honour to present to you and to the members of the Legislative Assembly the 2011 Annual Report for the Office of the Police Complaint Commissioner.

This report has been prepared in accordance with section 51.1(1) of the *Police Act*, RSBC 1996, c.367.

Yours truly,

Stan T. Lowe,
Police Complaint Commissioner

Stan T. Lowe,
Police Complaint Commissioner

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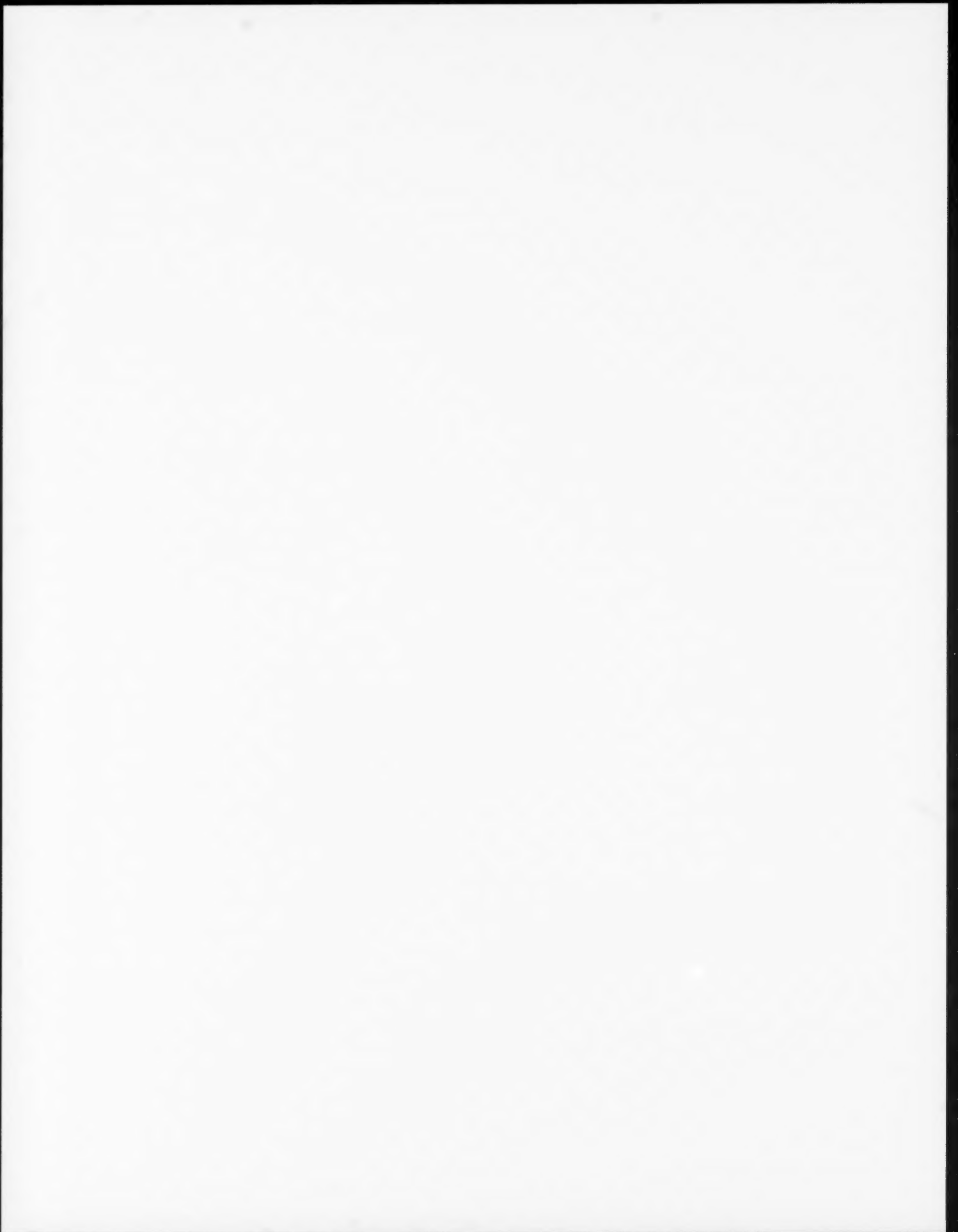
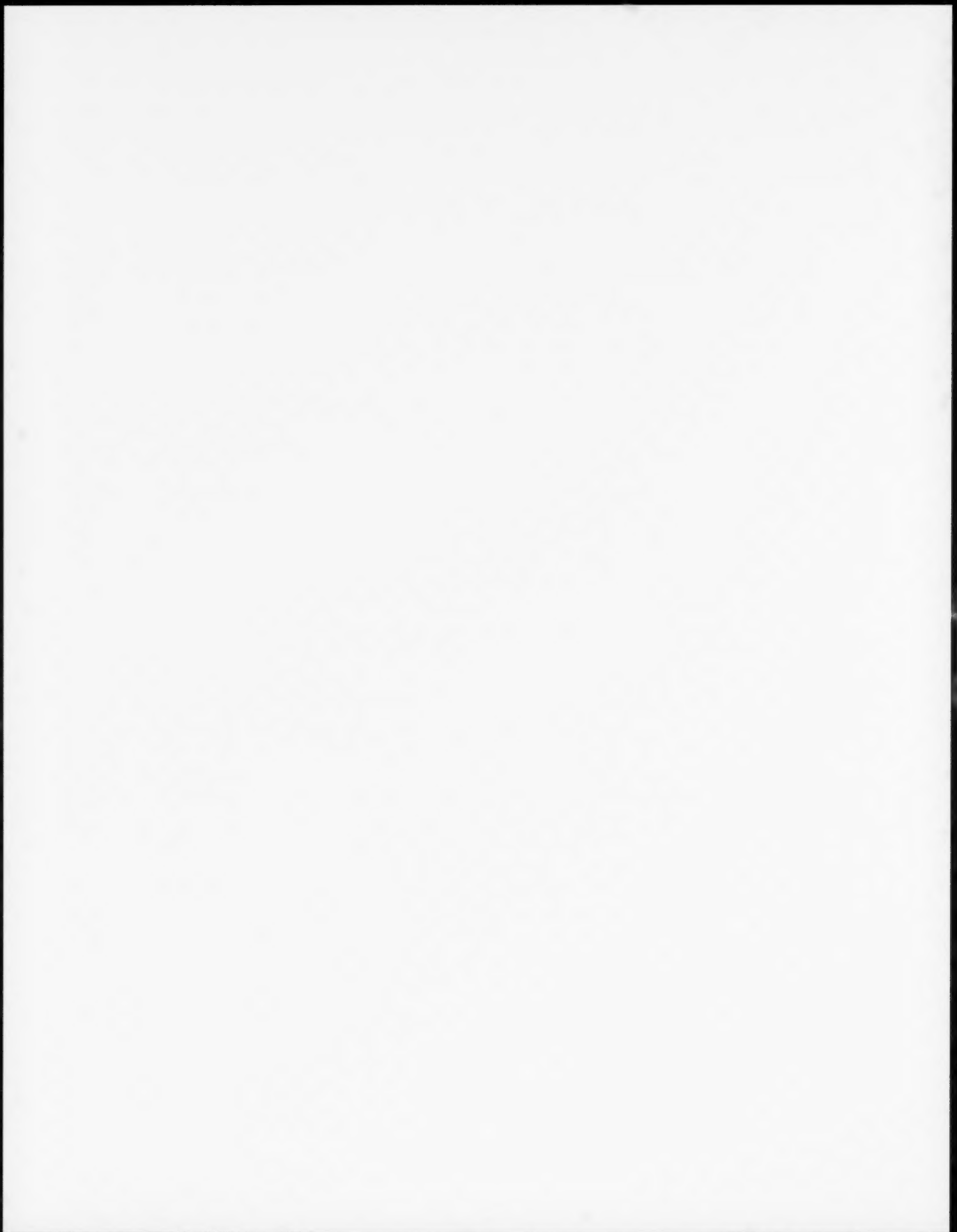


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Commissioner's Message



Progress & Building Relationships

This past year represents the second full year that significant revisions to the *Police Act* have been in place. I am pleased with the progress made by all stakeholders in their respective adjustments to the procedural changes to the complaint system.

In many respects, the legislative revisions have brought about sweeping change in the police complaint system, as they serve as a strong foundation for improved transparency and accountability. The goal for the OPCC over the short term is to seek further legislative change to address procedural and substantive gaps, which will facilitate the system's smooth and efficient operation.

I am pleased with the inroads that Alternative Dispute Resolution (ADR) has made. Our experience has shown that ADR provides the parties with a powerful learning tool in which they collaboratively exert control over the process and determine the

resolution. ADR enhances community policing by improving upon the relationship between members of the public and the police, one relationship at a time. Successful resolutions can have a positive impact on the participants' families, friends and the community as a whole.

Our goal of increasing the civilian nature of the OPCC continues to progress with an intensive in-house training program for our investigative analysts who come from civilian backgrounds. We are striving to strike the appropriate balance between increasing the civilian component of our office and ensuring we have the necessary skill sets in place to conduct efficient and effective oversight. Civilian analysts from policing backgrounds remain invaluable to the OPCC, as they provide mentoring to our developing analysts and expertise in the area of police oversight.

Intermediate avenues of adjudication continue to have a positive impact on the complaint system, as they provide valuable adjudicative guidance to all stakeholders which promote consistency and reliability in decision making. There are a number of important judicial reviews underway, many involving the interpretation of the legislation. These reviews represent what I view as necessary "growing pains" associated with legislative change.

In these difficult economic times, the government has provided much needed financial support to offset fiscal pressures associated with the improved access to intermediate avenues of adjudicative review. This support has served to improve the effectiveness of our oversight powers and has bolstered transparency and accountability in the police complaint system.

Our staff remains committed to ensuring the police complaint process in British Columbia continues to improve and meet the needs of both the public and policing community.

About the OPCC

Statement of Purpose:

The Office of the Police Complaint Commissioner provides impartial civilian oversight of complaints regarding municipal police. We ensure thorough and competent investigations of police complaints and fair adjudication with respect to all parties. We facilitate quality policing and public trust in law enforcement and the complaint process.

Statement of Principles:

<i>Fairness</i>	We act fairly, objectively and impartially in our oversight of the complaint process involving municipal police in British Columbia.
<i>Independent Oversight</i>	As an independent office we serve the public free from any improper influence or interference.
<i>Principled</i>	We provide vigilant civilian oversight to enhance transparency and accountability while ensuring a principled approach in arriving at decisions.
<i>Commitment to Excellence</i>	We strive for excellence in our work while maintaining the highest ethical standards.

Mandate

The Office of the Police Complaint Commissioner (OPCC) is an independent office of the legislature established under Part 9 of the *Police Act* [RSBC 1996] c.367. The OPCC is mandated to ensure that complaints involving municipal police officers and departments in British Columbia are handled fairly and impartially. The police complaint commissioner is independent from all municipal forces and government ministries and reports directly to the BC Legislative Assembly.

The police complaint commissioner does not have jurisdiction over the handling of complaints involving members of the Royal Canadian Mounted Police (RCMP). The RCMP has a federal commission to handle complaints involving their members. Complaints received at the OPCC with respect to RCMP members are forwarded to the Commission for Public Complaints Against the RCMP. (See page 5 of this report).

Generally, the police complaint commissioner is responsible for overseeing and monitoring complaints, investigations and the administration of discipline and proceedings under Part 11 of the *Police Act*, and ensuring that the spirit and intent of the *Police Act* is achieved.

The police complaint commissioner is **required** by legislation to:

- Establish guidelines to be followed with respect to the receiving and handling of formal complaints as well as non-registered complaints.

- Establish forms to be used for formal complaints, non-registered complaints, and mandatory investigations.
- Establish and maintain a record of each complaint and investigation, including all records.
- Compile statistical information in respect of complaint records, including:
 - demographical information, if available,
 - number & frequency of complaints, types or classes of complaints and investigations, and the outcome or resolution, and
 - any trends in relation to police complaints.
- Report regularly to the public about complaints, complaint dispositions and the complaint process. Such reports must be published at least annually and posted on a publicly accessible website.
- Develop and provide outreach programs and services to inform and educate the public on the police complaint process and the services provided by the OPCC, with special consideration and attention to addressing the particular informational needs of British Columbia's diverse communities.
- Establish and make available to the public a list of support groups and neutral dispute resolution service providers and agencies that may assist complainants with informally resolving or mediating their complaints.
- Inform, advise and assist the public, complainants, police officers, discipline authorities, police boards and adjudicators with the complaint process.
- Accept and consider comments from any interested party respecting the administration of the police complaint process.
- Make recommendations for the improvement of the police complaint process in the Annual Report.

In addition to the above requirements and powers granted under Part 11 of the *Police Act*, the police complaint commissioner may also do the following:

- Establish procedures for mediation and guidelines for informal resolutions of public trust complaints.
- Prepare and provide informational reports on any matter related to the functions of the police complaint commissioner.
- Engage in or commission research on any matter relating to the police complaint process.
- Make recommendations to a police board that it examine and reconsider any policy or procedure that may have been a factor in giving rise to a complaint.
- Make recommendations to the Director of Police Services or the Solicitor General that a review or audit is undertaken to assist police in developing training or other programs designed to prevent the reoccurrence of problems revealed by the complaint process.
- Make recommendations to the Director of Police Services to exercise one or more of their legislatively appointed functions in relation to a service or policy complaint.
- Make recommendations to the Solicitor General for a public inquiry under the *Public Inquiry Act* if there are reasonable grounds to believe that:
 - the issues in respect of which the inquiry is recommended are so serious or so widespread that a public inquiry is necessary in the public interest;
 - an investigation conducted under Part 11 of the *Police Act*, even if followed by a public hearing or review on the record, would be too limited in scope; and
 - powers granted under the *Public Inquiry Act* are needed.
- Consult with and advise contemporaries in other Canadian jurisdictions or within the Royal Canadian Mounted Police.

Jurisdiction

The Office of the Police Complaint Commissioner oversees the handling of complaints against the following police departments:

VANCOUVER ISLAND

- CENTRAL SAANICH
- OAK BAY
- SAANICH
- VICTORIA

MAINLAND

- ABBOTSFORD
- OCABC
- DELTA
- NELSON
- NEW WESTMINSTER
- PORT MOODY
- SCBC TRANSIT POLICE
- STL'ATL'IMX TRIBAL POLICE
- VANCOUVER
- WEST VANCOUVER

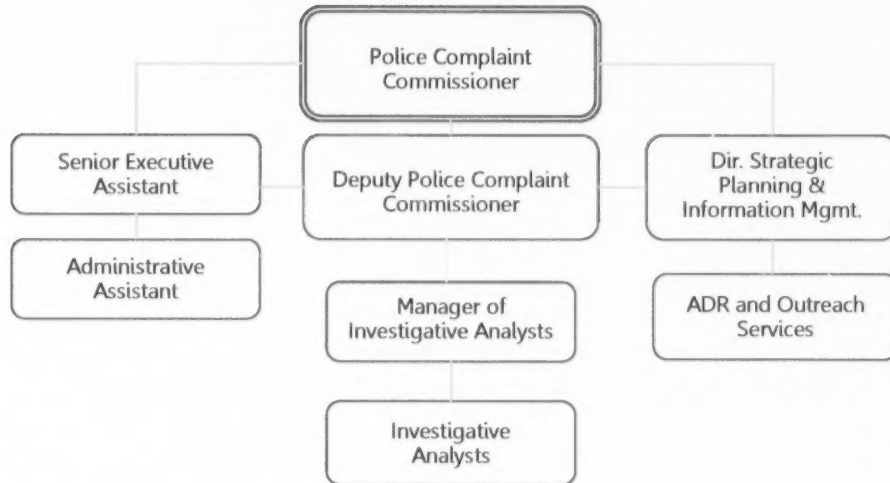
The *Royal Canadian Mounted Police Act* provides a separate process for complaints regarding a member of the RCMP. If you have a complaint concerning the conduct of an RCMP officer, please contact:

Commission for Public Complaints Against the RCMP
National Intake Office
PO Box 88689
Surrey, BC V3W 0X1

Telephone: (604) 501-4080 or Toll Free at 1 (800) 665-6878
Website: www.cpc-cpp.gc.ca



OPCC Structure



OPCC Budget



The Complaint Process In British Columbia

What is Police Misconduct?

The *Police Act* defines professional misconduct as follows:

Conduct that constitutes a public trust offence.

A public trust offence is a conviction for an offence under an enactment of Canada, or of any province or territory in Canada, a conviction in respect of which does or would likely

- Render a member unfit to perform his or her duties as a police officer; or
- Discredit the reputation of the department with which the officer is employed.

Any conduct that constitutes an offence under section 86 (offence to harass, coerce or intimidate anyone questioning or reporting police conduct or making a complaint) or section 106 (offence to hinder, delay, obstruct or interfere with investigating officer);

Any conduct set out below constitutes a disciplinary breach of public trust when committed by a member:

Abuse of Authority
Accessory to Misconduct
Corrupt Practice
Damage to Police Property
Damage to Property to Others
Improper Off-Duty Conduct
Deceit

Discourtesy
Discreditable Conduct
Improper Disclosure of Information
Improper Use or Care of Firearm
Misuse of Intoxicants
Neglect of Duty

If Misconduct is Proven?

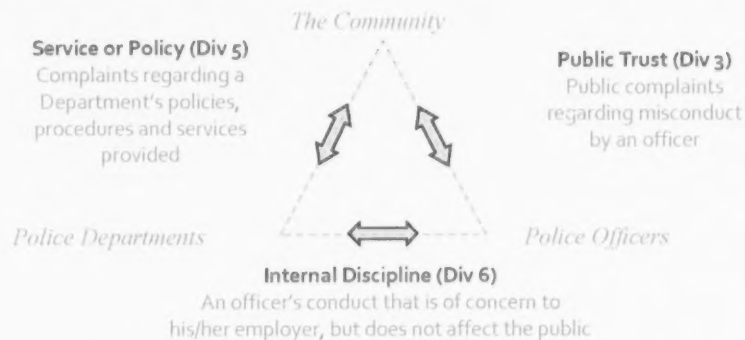
The *Police Act* also sets out the range of corrective and/or disciplinary measures to be imposed if the misconduct has been proven against the member. The measures include:

Advice as to future conduct
Verbal reprimand
Written reprimand
Participate in program/activity
Undertake counseling or treatment

Undertake training or re-training
Work under close supervision
Transfer / reassignment
Suspension without pay (up to 30 days)
Reduction in rank
Dismissal

What is a Service or Policy Complaint?

Service or policy complaints are complaints about the general direction, management and operation of a police department, or about the inadequacy or inappropriateness of the police department's staffing or resource allocation, training programs or resources, standing orders or policies, ability to respond to requests for assistance, and internal procedures.



Service or policy complaints are the responsibility of the police board and the board must advise the commissioner and the complainant of the results; including what course of action if any was taken and must provide a summary of the results of any investigation or study. The commissioner cannot require a board to take any particular course of action regarding a service or policy complaint, but may make recommendations to the board. A service or policy complaint may be submitted by a person who feels that a police department has not provided proper service, or has a complaint about a policy of a police department.

What is an Internal Discipline Complaint?

Performance management issues or employer/employee concerns that do not affect the public are considered internal discipline matters.

Making a Complaint

The complaint process may be initiated in three different ways:

Registered Complaints

By far the most common method of initiating the complaint process is through complaints received from members of the public. A registered complaint may be submitted by the person who was directly affected by, or who directly witnesses, the conduct; or by an individual known to and acting on behalf of a person if the person on whose behalf the complaint is being made consents to it being made or is, because of age or a mental or physical condition, incapable of giving consent; or by a third-party.

The form is titled "Complaint Form" and includes sections for:

- What you should know:** Information about the complaint process, including that the complaint must be filed within 90 days of the incident.
- Complainant Details:** Fields for name, address, phone, and email.
- Details of the Complaint:** Fields for the date and location of the incident, a description of the complaint, and the name of the police officer involved.
- Signature:** A line for the complainant's signature.

If a member of the public has concerns but does not wish to submit a registered complaint, they can report their concerns directly to the municipal police department. These are referred to as "non-registered complaints". The police department must forward a record of all non-registered complaints to the OPCC for review, and depending on the nature and seriousness of the incident described; the commissioner may order an investigation. If an investigation is undertaken, the person who complained will not receive any reports, nor will they have any of the rights granted under the *Police Act* to registered complainants.

Ordered Investigation

An ordered investigation results when information of potential professional misconduct is received by either a police department or the OPCC but there has been no complaint filed. The police complaint commissioner (the commissioner) will review the information and depending on the circumstances, order the matter be investigated.

Mandatory External Investigation

The *Police Act* stipulates that all incidents that result in serious injury or death to individuals in the custody or care of the police, or as a result of operations of a department, must be reported to the OPCC and the commissioner must order that an investigation be conducted by an external agency.

Accessing the Process – How do I file a complaint?

There are several ways in which a member of the public may access the police complaint process. A complaint may be filed on-line through the OPCC website (www.opcc.bc.ca), by facsimile, by calling the toll free line 1-877-999-8707 or by attending in person to our office in Victoria, B.C. Complaints may also be made directly to any municipal police department.

Withdrawing a Complaint

If a complainant chooses to withdraw a complaint, the complainant must give notification to the police complaint commissioner in the form and manner required by the police complaint commissioner. The commissioner may, if it is in the public interest that the alleged misconduct be investigated, order that the investigation continue, however the complainant would not be required to participate if he/she did not wish to.

Determining Whether a Complaint is Admissible

The OPCC must review all registered complaints received to determine whether or not a complaint should be forwarded to a police department for investigation. *To be an admissible complaint, the complaint must contain allegations of police misconduct; not be frivolous or vexatious; and the incident must have occurred within 12 months of the filing of the complaint.* If the complaint does not contain sufficient detail the OPCC may contact the police department involved or the complainant to obtain further information. If, after review, a complaint is deemed to be inadmissible, the complainant will receive a letter from the OPCC informing them of the decision, and providing clear reasons for arriving at that decision.

Resolving a Complaint

Once a complaint has been made admissible by the OPCC it may be resolved in one of four ways:

Discontinued Complaints

A complaint that has been deemed admissible may be discontinued if, after further information is obtained, it is established that:

- Further investigation is neither necessary nor reasonably practical;
- The complaint is frivolous or vexatious; or
- The complaint was made knowing it was false or misleading.



Informal Resolutions

Depending on the particular circumstances of the complaint, the matter may be suitable for informal resolution. A complaint can only be informally resolved if both the member and the complainant agree to the proposed resolution in writing. The resolution becomes final and binding once it is reviewed and confirmed by the police complaint commissioner.

Mediation

A complaint may also be suitable for a resolution through the assistance of a professional mediator. Before a file can proceed to mediation, the commissioner must first approve it to ensure the circumstances are appropriate for mediation. Mediations are completely confidential and agreements reached are final and binding.

Investigation Through to a Decision

If a complaint file is not informally resolved, or is not appropriate for an informal resolution, and not discontinued, an investigation into the complaint is commenced by a professional standards investigator. Investigations into complaints are to be completed within 6 months and both the complainant and subject member receive regular reports on the progress of the investigation. An OPCC analyst will be assigned to contemporaneously monitor the investigation to ensure that it is completed in a professional and thorough manner that complies with the legislation.

Once the investigation is complete, the investigator submits a final investigation report to the discipline authority for a decision. A discipline authority is the chief constable of the department, or a senior officer designated by the chief constable. Within **10 business days** of receipt of the report, the discipline authority must provide his or her decision to the complainant, the member and to the OPCC. The decision must set out whether the evidence appears to substantiate the

allegation of misconduct, and if so, advise of the range of proposed discipline or corrective measures. A pre-hearing conference may be held, allowing the member the opportunity to admit the misconduct and accept the proposed discipline or corrective measures. If no agreement is reached or a pre-hearing conference is not held, the matter then proceeds to a discipline proceeding before the discipline authority.

The complainant may request a review of the file if they disagree with the discipline authority's decision to not substantiate an allegation or if they disagree with the results of a discipline proceeding. A member may also request a review if they disagree with the outcome of a discipline proceeding. Also, if the penalty imposed is dismissal or a reduction in rank, the member is entitled to have the commissioner arrange for a public hearing or a review on the record.

Avenues of Review

The OPCC reviews every investigation and decision to ensure the integrity of the process and that the decisions are impartial and fair. If the commissioner disagrees with a decision, he or she has three avenues of adjudicative review to choose from, depending on the unique circumstances of the matter.

The commissioner may:

- Appoint a retired judge to review the final investigation report and decide whether the allegation is substantiated by the evidence. If the finding is substantiated, the retired judge then takes on the role of discipline authority for the continuation of the process. If the retired judge's finding is that the allegation is not substantiated, the matter is final and conclusive;
- Following a discipline proceeding, arrange for a review on the record. A retired judge is appointed to conduct a "paper review" of the entire matter and deliver a decision and, if substantiated, the corrective and/or disciplinary measures to be imposed. A retired judge's decision following a review on the record is final and conclusive and may only be appealed on an issue of law; or
- Following a discipline proceeding, arrange for a public hearing. A retired judge is appointed to sit as the adjudicator and review the evidence, hear sworn testimony and arrive at a decision. Public hearings are open to the public and an adjudicator's decision is final and conclusive and may only be appealed on an issue of law.

Complaint Summaries

The following complaint summaries are intended to provide samples of the variety of complaint investigations that were reviewed and concluded by the Office of the Police Complaint Commissioner between January 1st and December 31st, 2011. All substantiated complaints resulting in corrective or disciplinary measures are recorded on the officer's Service Record of Discipline. "T" in the file number denotes a "transitional" complaint which indicates that the investigation was initiated under the previous legislation and concluded pursuant to the current legislation.

Abuse of Authority

2011-5993

Pursuant to section 89 of the *Police Act*, this matter was originally reported to the OPCC by the police department involved. The Reportable Injury Notification advised that a male had been arrested at the front counter of the police department for public intoxication. While in an elevator, on the way to cells, the male displayed pre-assaultive cues that led the member to form the belief he was about to be spat upon or "head butted". The member spun the male around and pushed him against a wall. The male sustained two cracked front teeth. A monitor file was opened.

Two days later, the male filed a registered complaint regarding the incident. The male reported that he was at the front counter of the police station when he was placed under arrest and informed he was going to the "drunk tank" for the night. While in the elevator, on the way to cells, he demanded the member do his job properly and provide him with a breathalyzer. The member's response was to throw him against the wall, causing his teeth to crack.

Upon being advised that the OPCC had determined the complaint to be admissible the police department requested that an external police department conduct the investigation.

The external investigator found no evidence to support the allegation of false arrest. The member based his belief that the complainant was arrestable for public intoxication on his demonstrated behavior; slurred speech; bloodshot eyes; and the strong odour of liquor on his breath. Witness officers, police employees and images captured by the video surveillance supported the member's observations. Further, staff at the hospital that treated the complainant that evening noted in their records that the complainant was "intoxicated, agitated, and uncooperative".

In relation to the allegation of excessive force there were no witnesses or video surveillance available. After assessing all of the investigative material the external investigator concluded the matter must be resolved in favour of the member. In making this determination, the external investigator noted that where independent evidence was available it supported the member's version of events. The discipline authority concluded this file as *unsubstantiated*.

After review, the OPCC found no reason for further proceedings and concluded the file.

Abuse of Authority / Neglect of Duty

2011-6157

The complainant and his party were traveling home on the West Coast Express. Upon exiting the train at the Maple Ridge station, the complainant's girlfriend became involved in an altercation with a female belonging to a group she had previously admonished for using inappropriate language. As the complainant made his way to assist, he was attacked without warning by several males and lost consciousness. When the complainant regained consciousness he noted police attendance. The complainant attempted to point out suspects and get the police to effect arrests. In response, a member allegedly yelled at him and used offensive language. In following up with police after the event, the complainant came to believe there was no investigation into his assault and proceeded to file a registered complaint.

After reviewing the *Police Act* investigation, the discipline authority made several determinations. In relation to the allegation that police failed to conduct an investigation into a report of a criminal assault the discipline authority acknowledged that although the service could have been improved, it was not negligent. The criminal investigation eventually led to criminal charges being laid.

The *Police Act* investigation noted that a member failed to secure and submit a knife found at the scene into evidence. The discipline authority *substantiated* a count of neglect of duty and the member accepted a *written reprimand* during a pre-hearing conference.

The discipline authority did not believe that the allegation that a member abused her authority, by using foul or obscene language during the performance of her duty, had been proven and made a finding of *unsubstantiated*.

The police complaint commissioner disagreed with the discipline authority's decision to not substantiate the allegation of abuse of authority and initiated a Section 117 Review. Hon. Benjamin Casson was appointed to review the final investigation report and make an independent determination. Hon. Casson determined that, based on the balance of probabilities, it appeared that the member had abused her authority. In having substantiated the allegation, Hon. Casson assumed the role of discipline authority and directed the member be offered a pre-hearing conference. At the pre-hearing conference the member accepted a *verbal reprimand*.

*A complete copy of
Hon. H. Benjamin Casson's decision is
available on the OPCC website.*

Discreditable Conduct / Deceit / Neglect of Duty

2011-6183

Pursuant to section 93(1)(a) of the *Police Act*, a member of the professional standards section requested the police complaint commissioner order an investigation into the way two members conducted a sexual assault investigation.

The two members had been assigned to investigate the sexual assault of a female who was in the lower mainland for business. The first member generated the general occurrence report and the second member obtained a digital statement from the victim.

When no suspect was identified or arrested, the file was transferred to a specialized unit. That unit noted that a copy of the digital statement provided by the victim had not been entered as evidence. The victim had returned to her home by this time and so a request was made to an outside policing agency that the victim be re-interviewed. During this second interview the victim mentioned that she had been contacted by the first member and formed the impression that the member did not believe she had resisted her attacker enough during the assault.

The order was granted and a *Police Act* investigation was conducted.

After reviewing the final investigation report the discipline authority determined that the allegation of discreditable conduct as it related to the first member was *not substantiated*. The member denied assessing any blame to the victim for the incident and no independent verification was possible.

In relation to the second member the discipline authority *substantiated* the allegation of neglect of duty. The discipline authority detailed the neglect as failing to submit the digital statement in a timely manner; failing to make notes of his investigation; and failing to submit his investigation results to the PRIME system until 91 days after the event.

During the course of the *Police Act* investigation this same member had been requested to submit a duty report. The member complied and in the report indicated that the victim was intoxicated at the time of the attack. The discipline authority's review of the investigation noted that three other officers had attended the call and did not note any signs of intoxication. One member specifically stated that the victim was not intoxicated. Further, the ViCLAS for this event did not include any indication of intoxication of the victim. The victim's statement contradicted this statement. Based on this information the discipline authority *substantiated* the allegation of deceit.

The member resigned and declined to attend his discipline proceeding. The discipline imposed was a 10 day *suspension* for the neglect of duty and *dismissal* for deceit. Although the member resigned before the discipline was imposed it will be reflected in his Service Record of Discipline.

Abuse of Authority

2011-6201

A 17 year old youth, in the company of a support worker from a community service agency, attended the police department to register his complaint. The youth reported that police had attended his residence in relation to an altercation between himself and another young male. He was arrested, placed in handcuffs and lodged in a police vehicle. Without warning, he alleged, an officer reached into the car, accused him of calling him a name, grabbed him by the neck and strangled him until he began to cry.

A *Police Act* investigation was initiated. The investigation determined that the member had previously been assigned as a mentor to the complainant as part of the department's initiative to monitor chronic offenders in the community. The member had a regular and supportive working relationship with the complainant until this incident.

The member reported that upon his arrival at the complainant's residence he informed him that he would have to speak to his father. The complainant appeared upset that his father would be involved. The member left him in the care of a cover officer while he went to speak to the complainant's father. While speaking with the complainant's father he could hear the complainant yelling and swearing. The member went back downstairs and placed the complainant under arrest for the assault. The complainant was then placed in the police vehicle. It was at that time that the cover officer informed the member that the complainant had called him a "goof". The complainant was yelling and cursing inside

the police car and so he opened the door, told him to shut his mouth, and shook him several times. The member acknowledged that he was upset and frustrated with the complainant. The member stated that he thought he had grabbed the complainant by his shirt or hoodie in the shoulder area. He agreed that as he held the material it may have pulled under the complainant's neck and choked him.

There was no in-car video, no area video and no independent witnesses to this event. The cover officer witnessed the member open the door to his police vehicle but had returned to his own vehicle by that time and did not see what occurred within.

After reviewing the final investigation report the discipline authority indicated that he accepted that the member's intention was to stop the complainant from yelling, not to choke him. However, it was an unnecessary use of force on a restrained prisoner. The discipline authority *substantiated* the allegation of abuse of authority.

A pre-hearing conference was held and the member accepted discipline in the form of a *written reprimand* and direction for *re-training*.

Neglect of Duty / Discreditable Conduct / Deceit

2008-4427T

Pursuant to section 93(1)(a) of the *Police Act*, a member of the professional standards section submitted a request to the police complaint commissioner that he order an investigation into way a member had conducted a hit and run investigation.

Police received a report of a possible hit and run. A member subsequently received communication that her boyfriend had been in an accident and determined that it was the same incident. The member attended the scene and took conduct of the investigation. The member notified the on-duty acting NCO of the possible involvement of her boyfriend but submitted a general occurrence report that did not include the possible suspect information, or detail the communications she had with her boyfriend.

The order was issued and a *Police Act* investigation was conducted. Upon review of that investigation the police complaint commissioner concluded that there were significant outstanding investigative deficiencies. Further, there appeared to be evidence that the member's supervisor may have failed to provide appropriate supervisory direction. A new order was issued naming the member in the original order and the member's supervisor. A second investigation was conducted. The second investigation was also rejected by the police complaint commissioner and he issued an Order for External Investigation.

The external investigator submitted a final investigation report that was accepted as thorough by the police complaint commissioner. The external investigator's analysis of the investigation found that there appeared to be evidence that the member committed the disciplinary default of neglect of duty, by willfully continuing in a course of action that the member knew, or should have known, was contrary to the department's regulations and procedures. Further, that there appeared to be evidence that the member's supervisor committed the disciplinary default of neglect of duty by failing to properly supervise the member.

The discipline authority did not subscribe to the investigator's belief that an analysis of the evidence proved misconduct and found the allegations of neglect of duty as they related to the member and the member's supervisor to be unsubstantiated.

The police complaint commissioner did not agree and initiated a Section 117 Review. Hon. Ian Pitfield was appointed to review the final investigation report and make an independent determination. Hon. Pitfield, after his review, determined that there appeared to be sufficient evidence to *substantiate* the allegation of neglect of duty for both members. In having substantiated the allegation, Hon. Pitfield assumed the role of discipline authority and directed the members be offered a pre-hearing conference. At the pre-hearing conference both members accepted a *written reprimand*.

*A complete copy of
Hon. Ian Pitfield's
decision is available on the OPCC website.*

Discourtesy

2011-6233

This complaint was registered by a youth worker advocating on behalf of a 19 year old autistic male. The complainant and his youth worker were the subject of a fare check at a sky train station. The complainant believed that he was able to travel with his concession pass but was informed that until the paperwork had been completed he had to travel under adult fare. The complainant began to exhibit his frustration as they left the platform to purchase the appropriate fare. As they returned to the train the complainant continued to act out in a negative manner. The member informed the youth worker that if he could not calm him down, he would be subject to arrest. As the youth worker directed the complainant towards the train the complainant called the member derogatory names. The member was reported to have made an inappropriate response which frustrated the complainant further, causing him to raise his fist at the member. The complainant was placed in handcuffs and informed of his rights. The complainant and the youth worker were taken to a private room where the member explained to the complainant why he could not behave in such a way in public. The complainant was then released with an apology for the comments the member had made earlier.

After reviewing the final investigation report, the discipline authority found that the allegation of discourtesy had been *substantiated* and offered the member a pre-hearing conference. During the pre-hearing conference the member accepted responsibility for his actions and received discipline in the form of a *written reprimand*.

Discreditable Conduct

2009-4954T

As this file became a matter of public record, the name of the member is included in the summary.

Chief Constable Graham was a keynote speaker at the 12th Annual Vancouver International Security Conference. During his keynote speech, Chief Constable Graham stated in part, "The protestors, very few arrests were made, everybody left upset with ah why there wasn't really much action. And then you knew that the protestors weren't that organized when on the ferry on the way over they all rented a bus. They all came over on a bus. And there was a cop drivin' the bus."

A reporter who was in attendance subsequently wrote a story and posted the comments on the internet. The complainant, who became aware of the story, filed a complaint concerned that Chief Constable Graham had disclosed the identity of an undercover officer to the general public.

An external investigation was conducted. Based on the final investigation report the discipline authority determined there had been no misconduct. The complainant was concerned about the quality of the investigation and requested a section 117 under the *Police Act*. The police complaint commissioner, after review, believed that further investigative steps were necessary, and due to the concerns of the complainant requested that a new officer be assigned to the investigation. Based on the information contained in the second investigation report, the discipline authority found that the allegation of discreditable conduct had been *substantiated* and determined that the appropriate discipline should be a *written reprimand*.

Counsel for Chief Constable Graham submitted a request, pursuant to section 141 of the *Police Act*, that the police complaint commissioner arrange a review on the record. The commissioner agreed that there were sufficient grounds to conduct such a review.

The decision reached during the original review of the record was based solely on a review of the record of proceedings and the *Police Act*. There was no opportunity for submissions, or applications for leave to provide submissions, by parties involved in the complaint.

As a result of this procedural irregularity, a new review on the record was arranged and Hon. Jakob de Villiers was appointed. It was determined that written submissions would be allowed by all parties, including the complainant, and that these submissions would be posted on the OPCC website. Written submissions were received and considered by Hon. de Villiers in his final decision.

Hon. de Villiers determined that Chief Constable Graham had acted in a manner that would cause discredit to police department. Hon. de Villiers affirmed the discipline to be a *written reprimand* as determined by the original discipline authority in this matter.

*A complete copy of
Hon. Jakob de Villiers'
decision is available on the OPCC website.*

Deceit / Neglect of Duty

2011-6637

Pursuant to section 93(1)(a) of the *Police Act*, a member of the professional standards section submitted a request to the police complaint commissioner that he order an investigation into the way a member conducted an impaired driver investigation.

A member of the public had called police to report that a vehicle was being driven in an erratic manner and that he believed the driver may have been impaired by drugs as he could smell marijuana coming from the vehicle. A description of the vehicle and the license plate number were provided but police were unable to locate the vehicle.

The primary investigator commenced his holiday leave the following day and a secondary member volunteered to assume responsibility for concluding the investigation. During the course of his investigation the member learned that the registered owner of the suspect vehicle was a female civilian employee at another police department. He contacted the female and while she acknowledged operating the vehicle in the area and at the time claimed by the caller she denied using marijuana or driving erratically. Based solely on his discussion with her the member submitted a synopsis to the report in which he concluded the complainant "did not provide an accurate plate". The member did not include his discussion with the female in his report nor did he take any other investigative steps. The member also took the extraordinary step in submitting a second report in which he requested that the female's name and vehicle entity information be removed from the file. The direct supervisor of the female

civilian employee at the separate police department reviewed the file and was concerned that the report did not accurately reflect the fact that it was her vehicle that was involved. He voiced his concerns to the supervisor of the member who in turn brought it to the attention of the professional standards section.

A *Police Act* investigation was conducted and the report was submitted to the discipline authority.

After reviewing the final investigation report the discipline authority determined that the allegations of deceit and neglect of duty were *substantiated* and offered the member a pre-hearing conference. During the pre-hearing conference, the member agreed to a 7-day *suspension* with respect to the deceit allegation, and a 3-day *suspension* with respect to the neglect of duty allegation.

Improper Off-Duty Conduct / Corrupt Practice

2009-4966T

As this matter became a matter of public record, the name of the member is included in the summary.

It was brought to the attention of the professional standards section of the police department that one of its members, Sergeant David Berndt, was the subject of an impaired driving investigation. Pursuant to section 93(1)(a) of the *Police Act*, a request for an Order to Investigate was submitted to the OPCC. The background information provided was that the RCMP had located Sergeant Berndt slumped over the steering wheel of his vehicle. During the impaired driving investigation Sergeant Berndt produced his police ID and badge in an effort to apparently gain favourable treatment. Sergeant Berndt was, at the time of the incident, on long term disability from the department.

Once the *Police Act* investigation was completed a copy of the final investigation report was provided to all parties. Under section 112 of the *Police Act* a member has the right to file, with the discipline authority, a written request for further investigation. Sergeant Berndt exercised this right and requested three further investigative steps be taken. After review, the discipline authority agreed to conduct further investigation into two areas that Sergeant Berndt requested but not the third.

Upon completion of the further investigation, a supplementary investigation report was submitted and the discipline authority issued his decision. The discipline authority determined three counts of misconduct were *substantiated* and ordered Sergeant Berndt to a discipline proceeding.

Pursuant to section 127 & 128 of the *Police Act*, once misconduct has been determined to be substantiated, a discipline authority must determine the appropriate disciplinary or corrective measures for each proven allegation of misconduct. When making this determination aggravating and mitigating circumstances must be considered.

In this file the discipline authority imposed discipline that included a reduction in rank. Pursuant to section 138(1) of the *Police Act*, Sergeant Berndt exercised his right to a public hearing.

A public hearing was held and presided over by Hon. Alan Filmer. In relation to the *substantiation* of the allegation that Sergeant Berndt had acted in a manner that was likely to discredit the reputation of the municipal police department with which he was employed Hon. Filmer believed that a *written reprimand* was adequate. Hon. Filmer noted that Sergeant Berndt had since apologized in writing to the RCMP members involved and appeared genuinely remorseful for the conduct he displayed on the evening of these events.

Sergeant Berndt acknowledged a finding of improper off-duty conduct in relation to public intoxication (the care and control was deleted from this allegation). The discipline imposed was a *written reprimand*.

The allegation of corrupt practice for presenting his badge was *substantiated* by Hon. Filmer and Sergeant Berndt was given *advice to his future conduct*.

*A complete copy of
Hon. Alan Filmer's
decision is available on the OPGC website.*

Deceit

2011-6123

The complainant was alleged to have been involved in a domestic dispute but left the scene prior to police arrival. A few days later the complainant turned himself into sheriffs at the courthouse. Upon learning this, the acting sergeant of the major crime unit attended the courthouse and requested the complainant be remanded into custody so that police could conduct further investigative steps. Specifically, it was the member's intention that his unit would execute a search warrant for any surveillance system that may have captured the assault and a bottle that may have been used.

The complainant filed a registered complaint concerned that police did not have the necessary legal grounds to execute a search warrant at his home. It was his belief that they acted in bad faith and provided false information to crown counsel for the purpose of having him remanded in custody, so that a search warrant could be executed at his home to locate a ring. He characterized his subsequent incarceration as an arbitrary detention. The complainant believed that police had no authority to disallow his wife's entry into the family home during the time that a search warrant was being sought for the residence.

A review of the final investigation report determined that the department's policy with respect to domestic disputes and violence against women in relationships is very clear and states in part: the investigating member shall conduct a thorough investigation and obtain as much independent evidence as possible to support a successful prosecution (e.g. photos of injuries, physical exhibits). It was not clear why the complainant believed that that the members were searching for a ring. In his statement the member reported that the search warrant was being sought for a surveillance system that had been noted at the residence by police that may have captured the assault and a bottle that was used in the assault. This statement was consistent with crown counsel's statement that the member had informed him of his belief that there may be video evidence of the assault. After review of the file and speaking with the member, crown counsel believed that if the complainant was released from custody evidence would be lost and sought a 3 day remand. A review of the Information to Obtain was consistent with the member's statement.

Accordingly, there was no reason to believe or evidence to suggest that police acted in bad faith.

In relation to the complainant's concern that his wife was prevented from entering the family residence the investigation determined that she was advised of the reason and appeared to be satisfied. After approximately 20 minutes that member was informed that police coverage was no longer required at the residence as the search warrant application had been denied. The member's actions were consistent with the common-law duties of enforcing the law and apprehending offenders, as any potential video evidence from the home would have undoubtedly been the "best" evidence possible and would either support or refute a criminal conviction in this matter. If the member had allowed individuals entry into

the home he would have been remiss in his duties and would have needlessly jeopardized the investigation.

The discipline authority found this complaint to be *unsubstantiated*.

After review, the OPCC found no reason for further proceedings and concluded the file.

Deceit / Neglect of Duty / Corrupt Practice

2011-6125

It was brought to the attention of the professional standards section of the police department that a member was using his police issued vehicle for unauthorized personal use. Pursuant to section 93(1)(a) of the *Police Act*, a request for an Order to Investigate was submitted to the OPCC. The background information provided was that on three separate occasions the member had been recorded at the Pacific Border Crossing returning to Canada in a police issued vehicle. Any trip across the border would require special permission from the member's superiors and it was believed no such permission had been obtained.

A *Police Act* investigation commenced wherein the member was requested to provide a duty report. The member's duty report contained inaccuracies in relation to his activities. In a subsequent statement provided by the member he admitted there were elements of deceit in the aforementioned duty report.

The investigation also determined that the member failed ensure the welfare of the police service dog in his care. The dog was taken from the member and veterinary care was required to bring the dog back to normal health.

Based on the final investigation report the discipline authority *substantiated* three counts of corrupt practice for the three counts of unauthorized use of a police vehicle; one count of neglect of duty for failing to care for the police service dog; and one count of deceit with respect to his making a false statement in his duty report.

These findings were upheld in a discipline proceeding that the member declined to attend. The discipline imposed was a *two day suspension* for each count of corrupt practice and a further *two day suspension* for one count of neglect of duty. These *suspensions were to be served consecutively*. The discipline imposed for the one count of deceit was *dismissal*. Although the member resigned before the discipline was imposed it will be reflected in his Service Record of Discipline.

Neglect of Duty

2011-6102

The complainant was arrested under section 28 of the *Mental Health Act*. It was the complainant's belief that he was denied the right to counsel and so filed a registered complaint.

The investigator responsible for the *Police Act* investigation reviewed relevant case law and had discussions with research and audit staff. The investigator recommended that this be concluded as unsubstantiated believing that there was a body of case law that indicated that there was no requirement for police officers who apprehended individuals under section 28 of the *Mental Health Act* to afford them

rights under section 10(b) of the *Charter*. Further he argued that even if he was wrong in his interpretation of the law the members were operating in good faith. The discipline authority came to the conclusion, based on a balance of probabilities, that there was no evidence to support the disciplinary default of neglect of duty against the members.

The complainant's legal counsel requested that the OPCC review the decision to not substantiate the complaint.

The OPCC reviewed the complaint, the final investigation report, and the discipline authority's decision. The main issue to be addressed was whether the members committed the disciplinary default of neglect of duty by failing to advise the complainant of his section 10(b) rights under the *Charter of Rights and Freedoms* when he was apprehended under section 28 of the *MHA*. The fact that a *Charter* breach may have occurred is not necessarily determinative of whether misconduct has been proven pursuant to the *Act*. The OPCC was mindful of the need to accord appropriate importance to the rights guaranteed under the *Charter of Rights and Freedoms* in order to protect any meaningful value to possessing these rights.

It was clear that at no point did the members advise the complainant of his rights under section 10(b) of the *Charter of Rights and Freedoms*. Once transported to hospital, the complainant requested the use of his cell phone to call his lawyer. Neither member prevented the complainant from using his cell phone and indicated that he could call whomever he would like. A review of the complainant's telephone records showed that the complainant's phone was working on the day in question and was not deactivated until two days later. Furthermore, these records showed the complainant placing two phone calls while at the hospital.

Although there clearly was a detention when the complainant was apprehended under section 28 of the *Mental Health Act* and transported to the hospital for examination by a physician, provisions under the *Mental Health Act* place a duty on health care providers to provide section 10 rights to patients being detained by the hospital (see section 34(2) of the *Mental Health Act*).

There was no demonstrable oblique or nefarious motive suggested by any of the evidence. The members formed a reasonable belief that their conduct was legal and not in violation of the *Charter*. Neither member has been instructed to provide s. 10(b) rights to those apprehended under the *Mental Health Act* during their initial training or through in-house training at the department, nor was there departmental policy indicating patients apprehended under the *Mental Health Act* to be provided access to counsel. If a *Charter* violation did occur, the violation was not an unreasonable one nor is there evidence that would support the position that the violation was deliberate or flagrant.

Although significant consequences are involved when restricting one's liberty, the apprehension of the complainant under the *Mental Health Act* did not engage the same penal consequences as when one is placed under arrest for a criminal offence. The complainant was not facing criminal charges and it was the OPCC's view that none of the conduct by either member could be characterized as egregious, or resulting in serious harm to the complainant.

The OPCC concluded that no further proceedings were necessary in this matter and concluded the file.

Alternative Dispute Resolution & Police Misconduct Complaints

The term "Alternative Dispute Resolution" or "ADR" is often used to describe a variety of dispute resolution mechanisms that are alternate measures to a full-scale investigation. The benefits of ADR are that it allows for the exploration of perspectives, an exchange of dialogue and a better understanding between the parties. Informal resolutions and mediations enhance community policing by improving the relationship between members of the community and police officers

one complaint at a time. A successful resolution can have a positive impact on the participants' family, friends and the community as a whole.



Traditional police investigations are not geared towards addressing goals such as conciliation and restoring relations. ADR gives the parties involved a sense of empowerment in that they control the process and together arrive at a positive resolution to the complaint. ADR can provide a powerful learning opportunity for both the complainant and the police officer, with lasting benefits. Civilian oversight of police complaints ensures that both the complainant and police officer receive a fair and balanced adjudication of a complaint. Research has shown that ADR processes are highly satisfactory to all parties involved.

Our experience has shown that there are a large number of complaints that are better suited to alternative dispute resolution than undergoing an extensive investigation and having a third party deliver a decision. By directly participating in the solution to the dispute, the majority of complainants and members come away from the process with a more meaningful and positive level of satisfaction. The new legislation has enhanced provisions for informally resolving or mediating *Police Act* complaints and the OPCC has encouraged complainants and police to take full advantage of these options, while ensuring the public interest is met.

In partnership with Mediate BC, the OPCC has developed a conflict resolution training syllabus specifically designed for Professional Standards investigators and front line supervisors. The first training session was held in September of 2011 and the response from participants was overwhelmingly positive. The feedback indicated a keen interest from the agencies for the training to be offered on a continuing basis. These training sessions are structured on a cost-recovery basis and we are planning the next training session for early in the New Year, to be followed with a session every 6 months or more frequently to meet the required demand. It is projected the number of appropriate complaints that are informally resolved will continue to increase as more training is provided to Professional Standards investigators and front line supervisors.

With continued informal resolution training and promotion of alternative dispute resolution by our office, our goal is to lead the country in the alternative dispute resolution of police complaints and ultimately resolve 50% of all allegations of misconduct by this method.

Outreach

Developing a Stakeholder Engagement Program

There are many stakeholders in the municipal police complaint process in the Province of British Columbia. These many stakeholders have diverse, and sometimes conflicting, expectations. Promoting open dialogue and maintaining working relationships is essential to improving public and police understanding of our office and our role in providing impartial civilian oversight of complaints involving municipal police.

Community Outreach

The OPCC's outreach initiatives for 2011 focused on informing the public on the recent amendments to the *Police Act*; increasing public access to the complaint process; and listening to community members about their policing concerns.

By using a community based approach, we were able to maximize our resources. The OPCC outreach worker met with organizations that represented the marginalized, women, youth, First Nations, multicultural organizations; and the mentally ill.

As part of each presentation, a package of informational materials and brochures related to the process and possible complaint resolutions was provided. One of the brochures outlined the benefits of resolving appropriate complaints through informal resolutions or mediations. Many service organizations recognized that there may be circumstances where a member of their community would not be able to participate in conflict resolution without support. These agencies offered to act as bridges to ensure a meaningful resolution was reached wherein their member's voice was heard. We are most grateful for their offers of assistance.

Police Complaint Commissioner Lowe recognized the important work these agencies perform and wished to thank them personally. On May 17, 2011, he hosted the outreach forum "Community Voices". The purpose of the forum was to understand each organization's role in the community and what the OPCC should know about their stakeholders in order to serve them better. The OPCC was honoured to have as keynote speaker Grand Chief Stewart Phillip, Union of British Columbia Indian Chiefs.

William MacDonald of the OPCC opened the morning's proceedings by providing a brief overview of the *Police Act*, in particular, the recent amendments that afford new rights to a complainant.

Police Complaint Commissioner Lowe moderated two panels that featured Doug King, Pivot Legal Society; Jesse Lobdell, BC Civil Liberties Association; David Dennis, Frank Paul Society; Grand Chief Stewart Phillip, Union of British Columbia Indian Chiefs; Amber Prince, Atira Women's Resource Society; Kevin Van Buskirk, Covenant House; Celia Arruda, Coast Mental Health; and Reverend Sandra Severs, First United Church.

Representatives from other agencies participated from the floor with the assistance of microphones. The OPCC was grateful for the opportunity to share and learn with our community partners. It is by hosting events of this nature, that the OPCC facilitates quality policing within our communities and strengthens public trust in law enforcement and the complaint process.

Police Community Outreach

The OPCC's outreach initiatives for 2011 focused on training professional standards investigators; police boards; and adjudicators on how the recent amendments to the *Police Act* affected their role in the process. The OPCC developed several training programs, some in partnership with the Justice Institute.

The presentation "An Introductory Workshop to the Recent Amendments to the *Police Act*" provided a general overview of the amendments. It opened with the procedural changes of how a complaint was to be processed and ended with how a discipline authority imposed discipline or corrective measures on a

substantiated complaint. This presentation was created for both professional standards investigators and discipline authorities.

A comprehensive package was prepared for discipline authorities that included complaint forms and brochures for their front line staff; OPCC information bulletins and guidelines; regulated forms; redacted samples of decisions etc. Included in the package was a presentation for all police members "Understanding the New Complaint Process". There were also training presentations on pre-hearing conferences and discipline proceedings.

A training presentation was prepared for police boards addressing the changes to investigations related to chief constables and service or policy complaints.

The presentation "Investigation of Police Complaints - The Evidence" was constructed to identify the sections of the Act that related directly to the investigation of a complaint and to inform professional standards investigators what the OPCC expected a final investigation report to contain.

The OPCC monitors *Police Act* investigations contemporaneously. It is important to establish working relationships with all professional standards investigators to ensure that our expectations are met. The police complaint commissioner and staff members attend meetings with representatives of each professional standards section every few months. The purpose of these meetings is to inform, share, and access new information.

As with complainants, the OPCC is available at any time to answer process questions from a member of the policing community.

Website

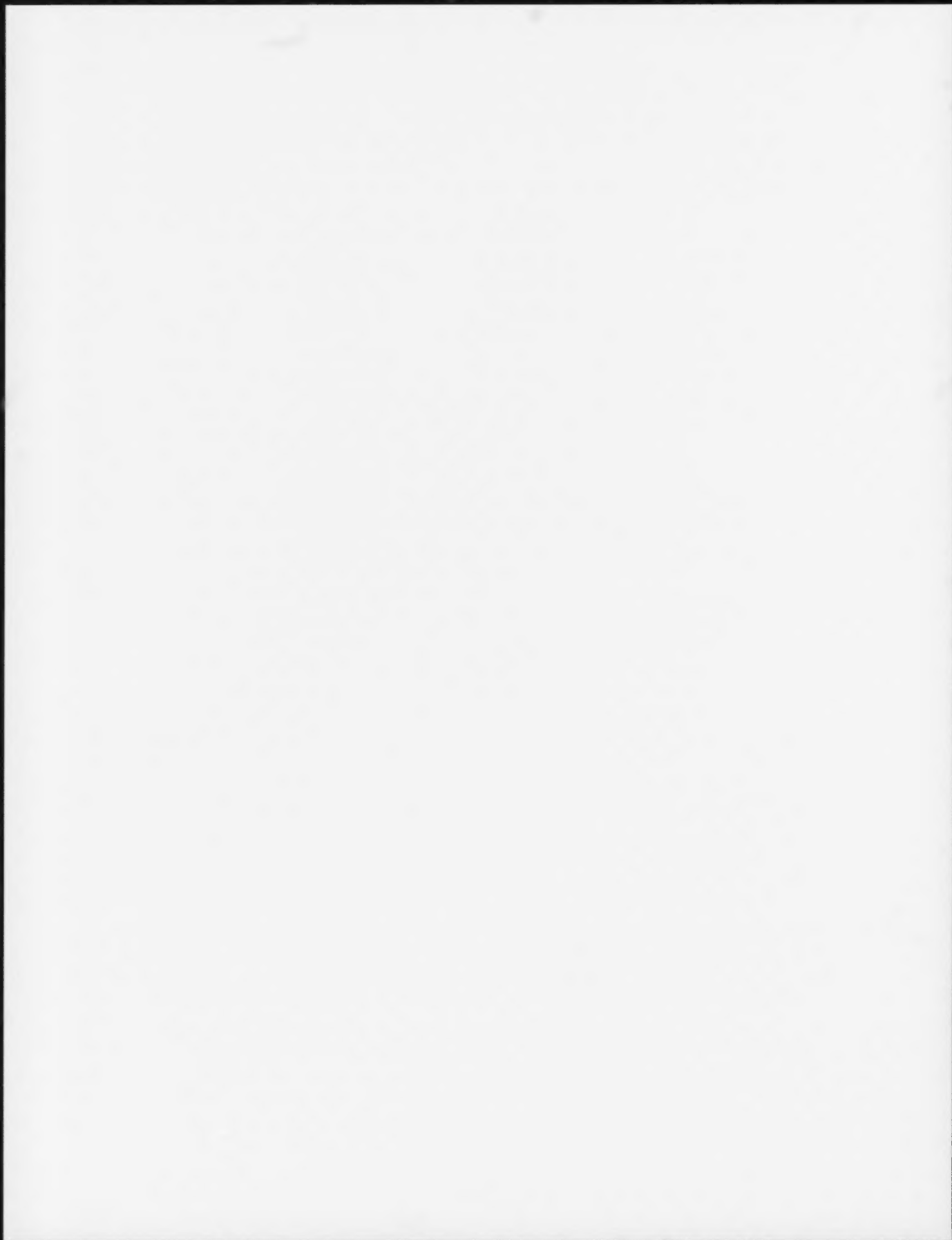
An effective tool for improving transparency and accountability is information. The OPCC website is currently being evaluated and configured to ensure that it is an informative and valuable resource.

Media

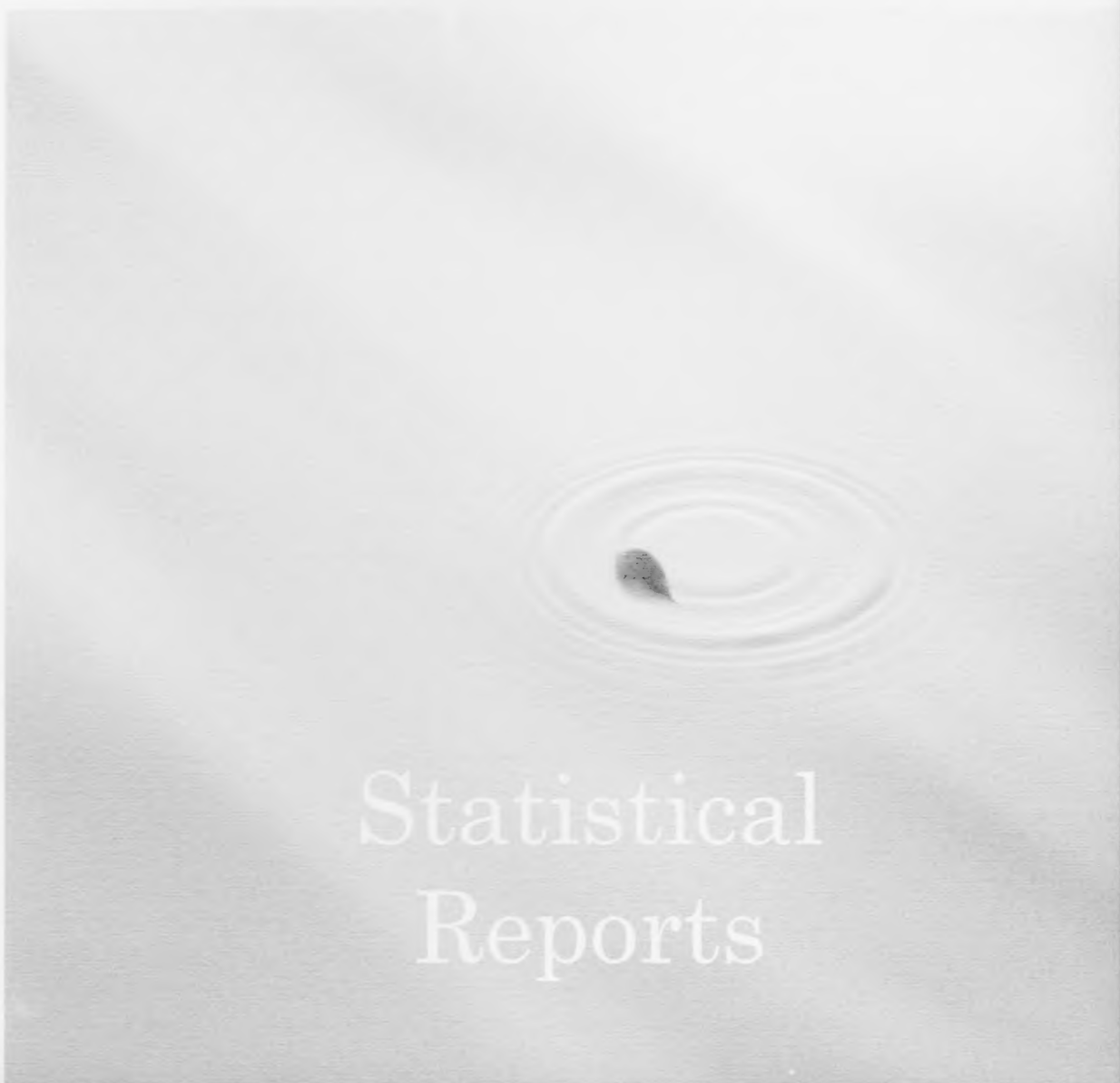
The OPCC recognizes that the media is an important stakeholder in the police complaints process. Open communication between the OPCC and the media is one of the cornerstones of transparency in the police complaint process and accountability to the public we serve. It is, however, important to note that when responding to media enquiries, we must always consider the integrity of *Police Act* investigations and the privacy interests of the involved parties.

Moving Forward

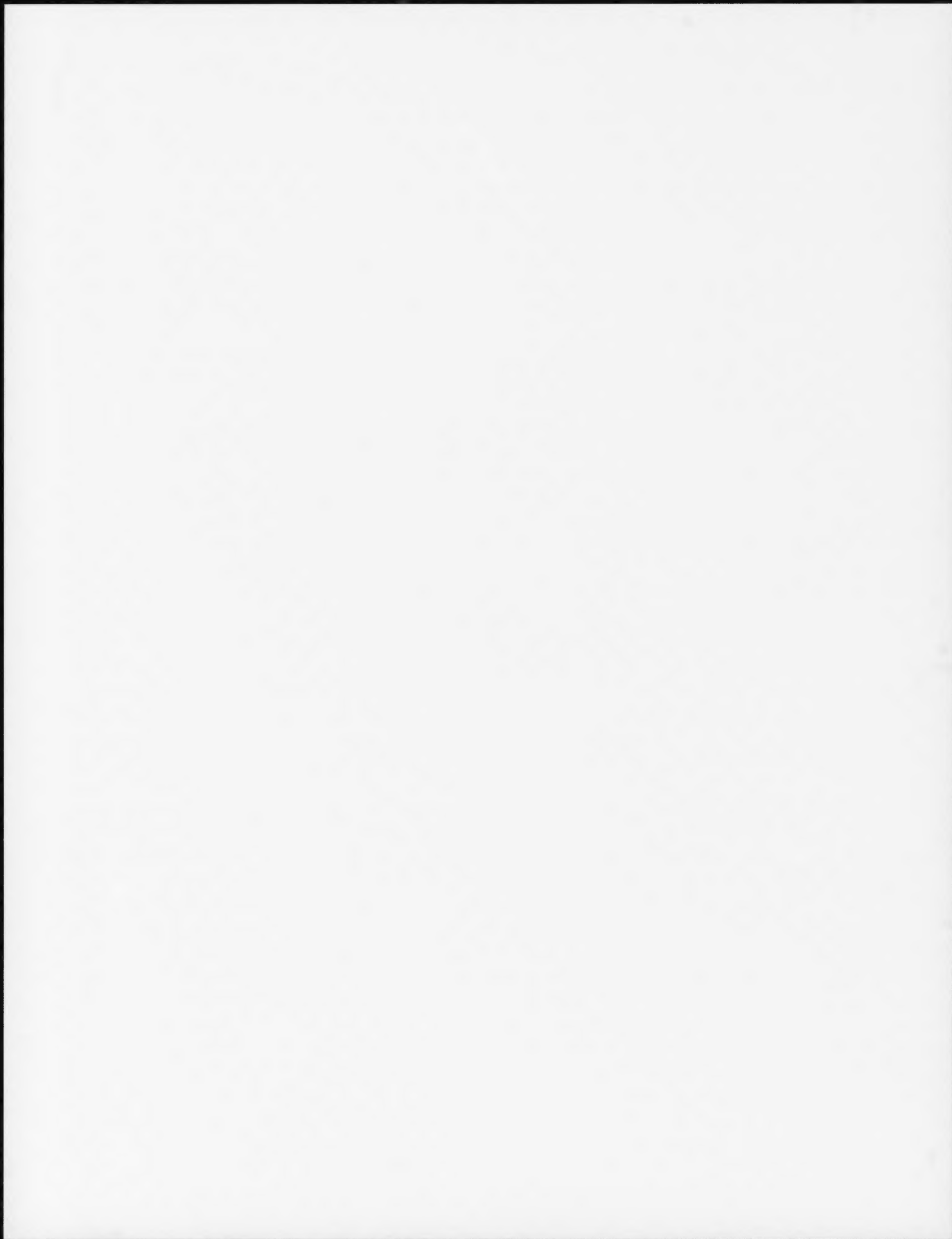
The OPCC will continue to create relationships with organisations, representatives and policing agencies to strengthen public and police confidence in our office and our role in providing impartial civilian oversight of complaints involving municipal police.



Appendix "A"



Statistical
Reports



Introduction

When a complaint is received at the OPCC, a file is opened and assigned to an analyst. All complaints are reviewed by the assigned analyst to determine whether it is admissible pursuant to the *Police Act*, and if so, the complaint is then broken down into its individual allegations. An admissible complaint file often contains more than one allegation, involving one or more officers.

The following is an example of how one complaint file can result in multiple allegations and results:

A Complainant states that 3 officers entered his residence without a warrant and 2 officers used excessive force in order to handcuff him. The Complainant further states 1 officer unlawfully seized property that was subsequently lost.

The assigned analyst would review the complaint and break it down into its individual components or "allegations". The above complaint would likely be broken down into the following allegations of misconduct as defined by the *Police Act*:

Abuse of Authority (unlawful entry) – involving 3 members.

Abuse of Authority (excessive force) – involving 2 members

Abuse of Authority (unlawful seizure of property) – involving 1 member

Neglect of Duty (improper care and handling of seized property) – involving 1 member

Following the investigation, the Discipline Authority may determine that none, some or all the allegations of misconduct have been proven against none, some or all of the officers. Continuing with the example above, the decision may be:

Abuse of Authority (unlawful entry) – Substantiated against officers #1, #2 and #3

Abuse of Authority (excessive force) – Substantiated against officer #2

Abuse of Authority (unlawful seizure of property) – Not substantiated

Neglect of Duty (improper care and handling of seized property) – Not substantiated

The Discipline Authority must then consider the mitigating and aggravating factors unique to each officer and determine the appropriate corrective and/or disciplinary measures to impose. For example:

Abuse of Authority (unlawful entry): Officer #1 – Written Reprimand
Officer #2 – Written Reprimand
Officer #3 – Additional Training

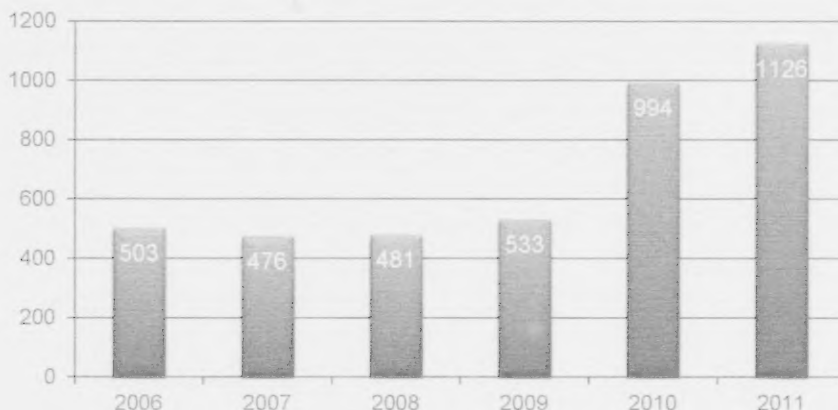
Abuse of Authority (excessive force): Officer #2 – 1 day suspension without pay

On March 31st, 2010, amendments to the *Police Act* came into effect, resulting in significant changes to how complaints against police are received, processed and reported. Complaint files that were opened under the old legislation but not concluded until after March 31st, 2010, are considered to be "transitional" complaints. Wherever possible and appropriate to all participants, they have been concluded pursuant to the new legislation. Accordingly, the following figures, charts and tables, where applicable, will be a blending of both old and new legislation and terminology.

Files Opened

Yearly comparisons

Please note the data contained in the following report may vary slightly from previous releases. Where differences exist, it can be assumed that the most current data release reflects the most accurate and up-to-date data



Files opened in 2011 by type

Registered Complaints (561)

are formal complaints by members of the public concerning the conduct of municipal police officers (Division 3). For reporting purposes, Service or Policy (Division 5) files are included in this category.

Non-Registered Complaints (257)

are any oral or written report by a member of the public that raises concerns or questions about the conduct of an officer, but that does not result in the making and registration of a formal complaint. If a non-registered complaint contains allegations of a serious nature, the department may request the Commissioner order an investigation or the Commissioner may order an investigation on his or her own initiative if it is deemed to be in the public interest.

Ordered Investigations (41)

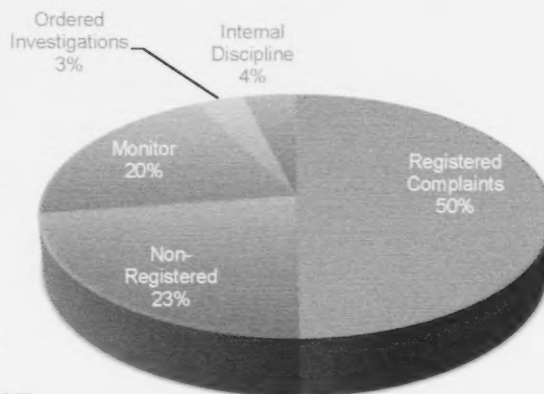
Complaint investigations may be ordered by the Police Complaint Commissioner, whether it is upon the request of a department or as a result of information received from any source that raises concerns about officer misconduct. This also includes mandatory external investigations into serious harm or death incidents pursuant to section 89.

Monitor Files (223)

are opened when information is received by the OPCC from the police, including Reportable Injuries, or other sources such as media reports that may require an investigation pursuant to the Police Act. These are typically incidents that are serious in nature or that have generated media attention, but no potential disciplinary defaults have been identified to date. These files are held open until a report is received from the police. The matter is reviewed and a decision is made as to whether an Ordered Investigation is required. If no action is deemed necessary, the file is concluded as "Reviewed & Closed".

Internal Discipline (44)

are files concerning the conduct or deportment of a member that is of concern to his/her employer, but does not directly involve or affect the public, and is not the subject of a complaint under Division 3.



Files Opened by Department –Yearly Comparisons (Includes all categories of files)

Dept	2011	2010	2009	2008	2007	2006
Abbotsford	92	86	16	28	29	16
Central Saanich	12	4	9	2	3	4
OCABC	0	1	0	0	1	1
Delta	80	57	34	16	16	23
Nelson	16	5	4	8	10	3
New Westminster	60	36	32	45	17	25
Oak Bay	5	13	3	3	2	1
Port Moody	21	23	7	7	3	3
Saanich	61	48	39	35	28	28
SCBCTAPS	73	35	26	28	18	15
Stl'atl'imx	1	2	0	1	0	0
Vancouver	560	493	240	214	244	269
Victoria	103	156	103	81	80	98
West Vancouver	38	35	20	13	25	17
TOTAL:	1122¹	994	533	481	476	503

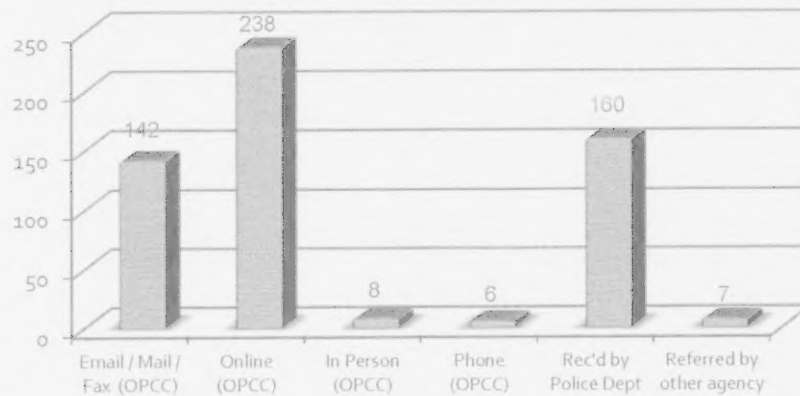
¹ 3 files were opened but the department was either out of the OPCC jurisdiction or unknown. 1 file was opened in error, but to maintain the integrity of the system, not deleted

All Files Opened – By Department & By Category (Opened between January 1st, 2011 and December 31st, 2011)

Dept	TOTAL	Inadmissible Registered	Admissible Registered	Mandatory Investigation	Ordered Investigation (Dept Request)	Ordered Investigation (PCC Initiated)	Monitor	Non-Registered	Internal Discipline
Abbotsford	92	22	20	2	2	0	29	17	0
Central Saanich	12	5	1	0	3	0	2	1	0
Delta	80	13	11	0	3	0	8	41	4
Nelson	16	8	5	0	1	0	0	1	1
New Westminster	60	15	14	0	3	0	18	7	3
Oak Bay	5	2	2	0	1	0	0	0	0
Port Moody	21	4	3	0	3	0	0	10	1
Saanich	61	12	6	0	3	0	5	34	1
SCBCTAPS	73	34	22	0	3	0	12	2	0
Stl'atl'imx	1	1	0	0	0	0	0	0	0
Vancouver	560	150	132	6	9	0	131	109	23
Victoria	103	42	22	0	0	0	14	25	0
West Vancouver	38	8	3	0	2	0	4	10	11
TOTAL:	1122	316	241	8	33	0	223	257	44

*OCABC had no files in this reporting period.

How Registered Complaints Received



Admissibility Reviews

The OPCC must review all registered complaints received to determine whether they are admissible under the *Police Act* process. In order for a complaint to be admissible, it must:

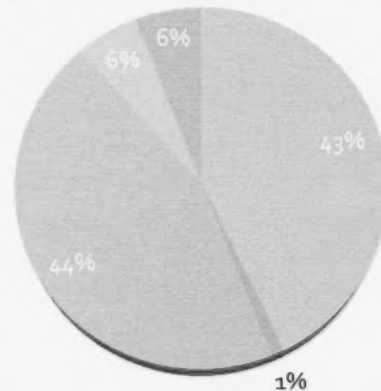
- ✦ Contain an allegation or allegations that, if substantiated, would constitute misconduct as defined by the *Police Act*;
- ✦ Be made within 12 months of the date of the incident giving rise to the complaint; and
- ✦ Not be frivolous or vexatious.

Of the **561** registered complaints reviewed in 2011:

- Admissible (241)
- Frivolous and/or vexatious (6)
- No misconduct identified (249)
- Filed out of time (32)
- Inadmissible - Other (33)

"Other" reasons why a complaint may be deemed inadmissible include:

- Withdrawn prior to a decision on admissibility;
- The complaint concerns a department or member outside the jurisdiction of the OPCC; or
- The complaint contains allegations relating to service or policy matters (processed under Div 5) or Internal discipline issues (processed under Div 6)



Reportable Injury Notifications (s.89)

Municipal Departments are required to report all incidents where an individual in the care or custody of the police suffers a "**reportable injury**" that requires medical treatment. These "reportable injuries" are opened as Monitor Files until it is determined whether an investigation will be conducted. In this reporting period, the OPCC received **218** notifications of reportable injuries: **6** have resulted in mandatory external investigations as required by the legislation; **1** has had an investigation ordered by the Commissioner (at the request of the department); and **12** have subsequently received registered complaints. The remaining **199** notifications were opened as monitor files.

Reportable Injury Files – by categories

Dept	# of Notifi- cations	Injuries as a result of one or more of the following: PLEASE NOTE: one incident/notification may involve more than one type of force.										
		Arwen / Bean Bag	Baton	Dog Bite	Empty Hand	Fire- arm	MVA	OC Spray	Pre- Exist'g Cond.	Self- inflicted	CEW	Other
Abbotsford	30	2	1	17	4	0	0	0	0	7	0	2
Central Saanich	1	0	0	1	1	0	0	0	0	0	0	0
Delta	8	0	0	0	5	0	1	0	0	2	0	0
Nelson	0	0	0	0	0	0	0	0	0	0	0	0
New Westminster	17	1	0	0	6	0	0	0	0	7	0	3
Oak Bay	0	0	0	0	0	0	0	0	0	0	0	0
Port Moody	0	0	0	0	0	0	0	0	0	0	0	0
Saanich	3	0	0	0	0	0	1	0	0	2	0	0
SCBCTAPS	13	0	1	0	5	0	0	0	0	5	0	3
Stl'atl'imx	0	0	0	0	0	0	0	0	0	0	0	0
Vancouver	131	8	3	88	24	2	3	0	0	7	4	5
Victoria	12	1	0	2	2	0	0	0	1	5	0	2
West Vancouver	3	0	0	1	2	0	0	0	0	0	0	0
TOTAL:	218	12	5	109	49	2	5	0	1	35	4	15

* OCABC had no files in this reporting period.

Files & Allegations Concluded

Files Concluded - Yearly Comparisons

Dept	2011	2010	2009	2008	2007	2006	2005
Abbotsford	104	56	24	21	34	13	11
Central Saanich	14	7	5	4	2	4	4
OCABC	1	1	0	1	0	0	1
Delta	85	60	21	21	20	14	11
Nelson	14	5	5	7	8	1	8
New Westminster	58	49	29	36	17	24	21
Oak Bay	3	13	3	2	3	3	4
Port Moody	28	20	3	4	4	5	2
Saanich	66	50	40	32	24	32	32
SCBCTAPS	69	36	34	11	17	3	n/a
Stl'atl'imx	2	1	0	1	0	1	0
Vancouver	553	489	221	209	278	273	183
Victoria	116	160	98	93	66	100	88
West Vancouver	38	29	21	17	20	9	16
TOTAL:	1151	976	504	459	493	482	381

* 3 were "Non-Jurisdictional"

In 2011, OPCC analysts concluded **1151** files. As explained earlier, all complaint files are reviewed and broken down into its individual allegations against individual officers; therefore a single complaint file will often contain multiple allegations against more than one officer.

Allegations of misconduct against an officer may result in one or more of the following outcomes:

Withdrawn	A Complainant may withdraw his/her complaint at any time in the process; however, the Commissioner may direct that the investigation continue if it is determined to be in the public interest to do so.
Informally Resolved	A complaint may be informally resolved pursuant to Division 4 of the Police Act. Both parties must sign a Consent Letter outlining the agreement and both parties have 10 business days in which to change their mind. The OPCC reviews all informal resolutions and if the Commissioner determines it is not appropriate or inadequate, the resolution is set aside and the investigation continues. Under the previous legislation, once an informal resolution was agreed upon by the respondent officer and the complainant, the Commissioner did not have the authority to review the agreement or have it set aside.
Mediated	A complaint may be resolved through mediation, facilitated by a professional mediator. If no agreement can be reached, the investigation continues. Amendments to the legislation provide the Commissioner the authority to direct a Complainant to attend a mediation, and similarly, the Chief Constable may order the member to attend.
Discontinued	The Commissioner may direct an investigation into allegations of misconduct be discontinued if it is determined that further investigation is neither necessary nor reasonably practical, or if it is found that the complaint is frivolous, vexatious or made knowing the allegations were false. Under the previous legislation, complaints that met any of these criteria were Summarily Dismissed.

Substantiated

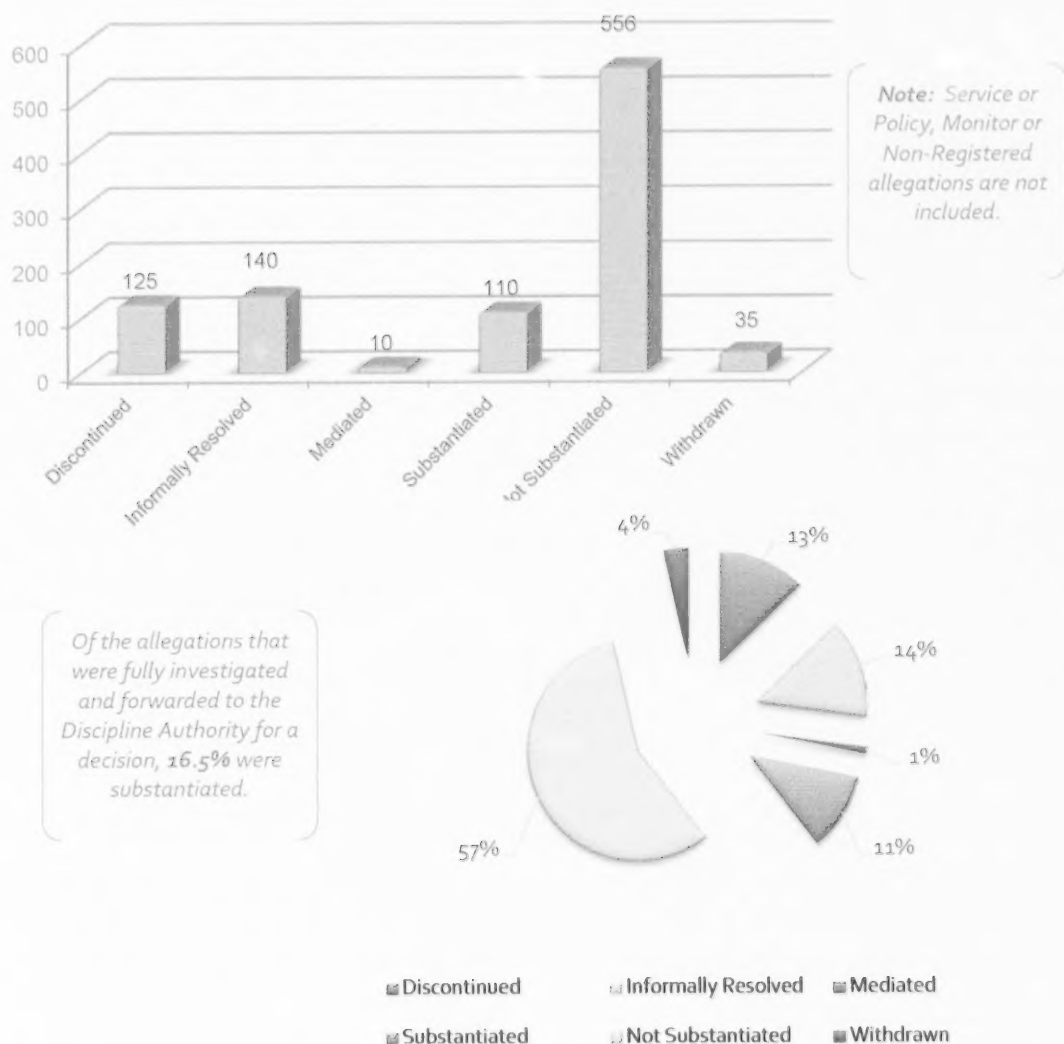
Following an investigation, the Discipline Authority determines the allegation is supported by the evidence. The Discipline Authority must then decide on appropriate disciplinary and/or corrective measures to impose. The member may accept the proposed measures at a Prehearing conference, or the matter may proceed to a discipline proceeding. The Commissioner may, if it is in the public interest, arrange for a public hearing or review on the record by a retired judge. The member also has an automatic right to a public hearing or review on the record if the proposed penalty is a reduction in rank or dismissal.

Not Substantiated

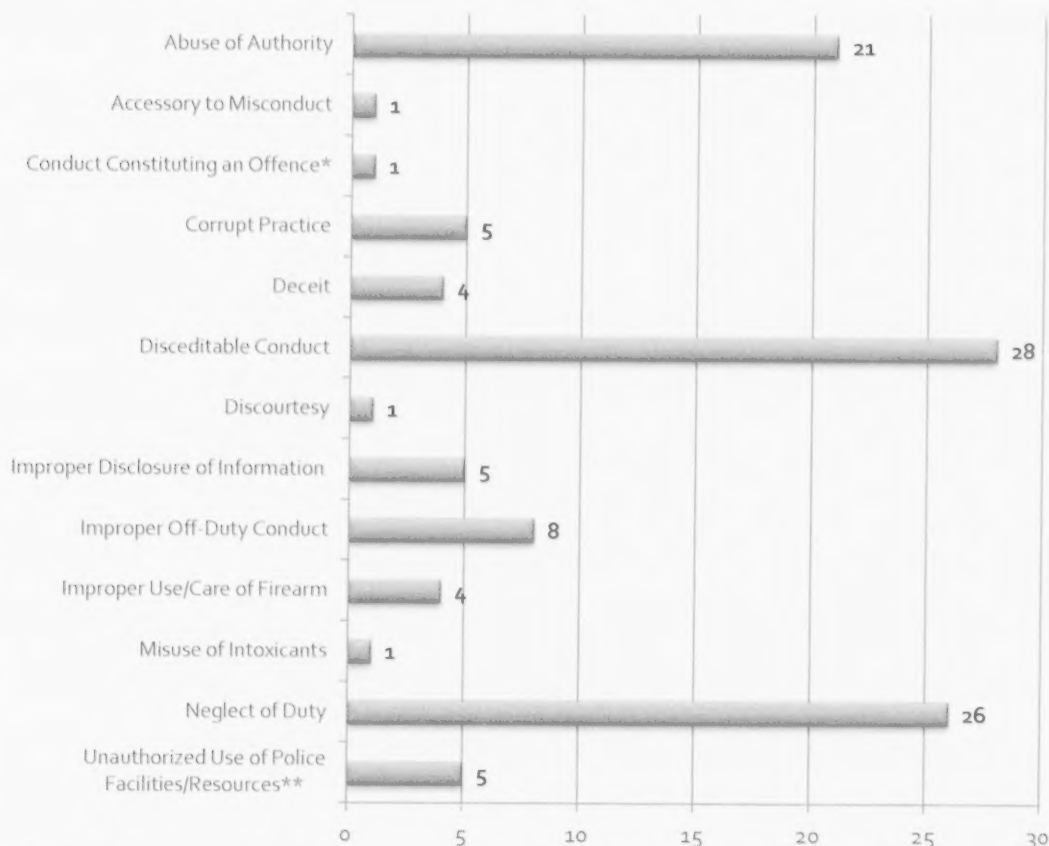
Following an investigation, the Discipline Authority determines there is no evidence to support the allegation of misconduct. All decisions are reviewed by the OPCC and if it is determined that it is in the public interest to have the decision reviewed, the Commissioner may appoint a retired judge to conduct a review of the investigation and arrive at a decision.

Allegations Concluded

(Between January 1st, 2011 and December 31st, 2011)



The following are the types of misconduct that were substantiated between January 1st and December 31st, 2011. Please note, the matter was concluded within this time period, but the actual date of the incident may have occurred prior to 2011.



* "Conduct Constituting an Offence" is a disciplinary default pursuant to the previous Police Act Code of Conduct Regulation.

** "Unauthorized Use of Police Facilities/Resources" under the current legislation is included in the broader definition of "Corrupt Practice". For ease of reporting and statistical purposes, the PCC has designated this as a separate category.

Keyword / Phrases re Concluded Allegations in 2011

As some of the definitions for the above-listed categories of misconduct are broad and can encompass a wide range of behaviour, the analyst also assigns selected keywords or phrases to the individual allegations that offer a more detailed description of the misconduct alleged. The following table lists the keywords or phrases for each complaint allegation that was concluded between January 1st and December 31st, 2011. The "Alleged" column refers to misconduct allegations that have been discontinued, informally resolved/mediated, withdrawn or not substantiated. Please note that not all allegations have an associated keyword or phrase and that there may be more than 1 police member associated to the allegation.

For a complete list and definition of the various types of misconduct recognized by the Police Act, please refer to s.77 of Part 11 – "Misconduct, Complaints, Investigations, Discipline and Proceedings" of the Police Act [RSBC 1996] c.367

Keyword / Phrase	Alleged ¹	Substantiated
Accidental discharge of firearm (Improper Use / Care of Firearm)	3	4
Aiding, abetting or counselling misconduct (Accessory to Misconduct)	0	1
Altering/erasing/adding to official record (Deceit)	1	1
Asserting/purporting police authority and committing a default (Improper Off-Duty Conduct)	3	3
Behaviour discreditable to reputation of department (Improper Off-Duty Conduct – Previous Legislation)	2	5
Conduct that discredits the department (Discreditable Conduct)	38	17
Contravening a provision of the Act, regulation, rule or guideline (Discreditable Conduct – Previous Legislation)	2	7
Damages property belonging to member of the public (Damage to Property of Others)	20	0
Dangerous driving (Neglect of Duty)	3	0
Disclosing information acquired as police officer (Improper Disclosure of Information)	5	4
Discourteous conduct (Discourtesy)	62	1
Discrimination – racial (Abuse of Authority)	5	0
Disorderly conduct prejudicial to the maintenance of discipline in the department (Discreditable Conduct)	2	2
Excessive Force – Dog (Abuse of Authority)	11	0
Excessive Force - Empty Hand (Abuse of Authority)	223	4
Excessive Force – Firearm (person) (Abuse of Authority)	3	1
Excessive Force – Handcuffs (Abuse of Authority)	20	0
Excessive Force - Impact Weapon (Abuse of Authority)	16	1
Excessive Force - Neck Restraint (Abuse of Authority)	1	1
Excessive Force – Pepper (OC) Spray (Abuse of Authority)	9	0
Excessive Force – Taser (Abuse of Authority)	1	0
Failure to account for money/property received (Neglect of Duty)	7	6
Failure to attend court (Neglect of Duty)	0	2
Failure to follow supervisor's lawful order (Neglect of Duty)	0	2
Failure to provide assistance (general) (Neglect of Duty)	5	1
Failure to provide Charter rights (Neglect of Duty)	8	0
Failure to provide medical attention (Neglect of Duty)	19	1
Failure to report loss/damage to police property or property in police custody (Damage to Police Property)	1	0
Failure to use a firearm in accordance with law (Improper Use or Care of Firearms)	1	0
False or misleading entry in official document or record (Deceit)	4	0
False or misleading oral or written statement (Deceit)	13	3
Improper/inadequate documentation of seized property (Neglect of Duty)	9	0

Improper care/handling/loss of seized property (Damage to Police Property)	10	1
Improper issuing of process (Abuse of Authority)	10	1
Inadequate documentation/notes/records (Neglect of Duty)	10	6
Inadequate investigation (Neglect of Duty)	71	3
Inadequate search (Neglect of Duty)	1	0
Leave duty without permission (Neglect of Duty)	2	0
Misappropriation of property or money received in course of duty	0	1
Misusing/losing/damaging police property (Damage to Police Property)	1	0
Oppressive conduct (Abuse of Authority)	50	2
Profanity/abusive/insulting language (Abuse of Authority)	20	0
Refusal to provide PIN (Discreditable Conduct)	5	0
Unauthorized use of police facilities/resources (subsection c(iv) of Corrupt Practice)	5	6
Under a pecuniary or obligation that affects ability to perform duties (Corrupt Practice)	0	1
Unfit for duty due to intoxicants (Misuse of Intoxicants)	1	1
Unlawful arrest (Abuse of Authority)	97	6
Unlawful detention (Abuse of Authority)	12	0
Unlawful entry (Abuse of Authority)	1	2
Unlawful search (non-person) (Abuse of Authority)	22	2
Unlawful search of a person (Abuse of Authority)	20	1
Unlawful seizure of property (Abuse of Authority)	20	0
Unsafe storage of firearm (Improper Use and Care of Firearm)	1	0
Using police authority for personal gain (Corrupt Practice)	0	2
Vehicle pursuits (Neglect of Duty)	1	3

Adjudicative Reviews

The *Police Act* offers three avenues of review following a Discipline Authority's decision:

Appointment of a New Discipline Authority (s.117)

If, on review of the Discipline Authority's decision, the Police Complaint Commissioner considers that there is a reasonable basis to believe that it is in the public interest, the Commissioner may appoint a retired judge to act as a new Discipline Authority, review the matter and make a decision.

Between January 1st and December 31st, 2011, the Commissioner appointed a retired judge to act as a new Discipline Authority on 3 matters.

Review on the Record (s.141)

The Police Complaint Commissioner may arrange for a review on the record if there is a reasonable basis to believe:

- the Discipline Authority's findings following a discipline proceeding are incorrect, or

- the corrective and/or disciplinary measures proposed by the Discipline Authority are not in compliance with the Act, or
- it is in the public interest to arrange a review on the record.

A retired judge is appointed as an adjudicator to review the disciplinary decision. Generally, a review on the record is a "paper" review without witnesses being called to testify.

Between January 1st and December 31st, 2011, the Commissioner arranged for 3 Reviews on the Record. (Due to a procedural irregularity, one of the Reviews on the Record was held twice)

Public Hearing (s.143)

All adjudicative decisions are available on the OPCC website at www.opcc.ca. A schedule of all upcoming Reviews on the Record and Public Hearings is also available.

The Police Complaint Commissioner may order a matter proceeds to a public hearing if it is determined that, in addition to the above considerations:

- it is likely that evidence, other than that made admissible at a review on the record, will be necessary to complete a review of the disciplinary decision on a standard of correctness; and
- a public hearing of the matter is necessary to preserve or restore public confidence in the investigation of misconduct or the administration of police discipline.

A retired judge is appointed as an adjudicator to preside over the hearing.

Between January 1st and December 31, 2011, the Commissioner ordered 2 public hearings.

Substantiated Allegations

(Concluded between January 1st and December 31st, 2011)

Abbotsford Police Department

The officer while off duty attended a common bawdy house and paid money for sex.

Defaults: Discreditable Conduct

Date of Incident: June 25, 2010

Ordered Investigation – Request by Dept

OPCC File 2010-5659

- o Attend and successfully complete an approved program designed to expose offenders to the impacts of exploiting females through prostitution;
- o Attend and successfully complete approved ethics training;
- o Suspended without pay for 2 days (20 hours); and
- o Work under close supervision for a period of 1 year

The officer failed to act upon information related to a possible assault committed by another member of the

- o Attend and successfully complete supervisors training course Modules

<i>department.</i> Default: Neglect of Duty Date of Incident: September 2, 2009 Ordered Investigation – Request by Dept OPCC File 2010-5050	1 & 2; and o Verbal Reprimand
<i>The officer submitted inappropriate receipt claims that were not suitable for the plainclothes assignment.</i> Default: Neglect of Duty Internal Discipline OPCC File 2010-5760	o Written Reprimand
<i>The officer used excessive force (kick) to a handcuffed suspect.</i> Default: Abuse of Authority Date of Incident: September 2, 2009 Ordered Investigation – Requested by the Dept OPCC File 2009-4922T	- o Transfer / Reassignment - o Attend and successfully complete supervisors training course Modules 1 & 2; and - o Work under close supervision for a minimum 2 block module on the road
<i>The officer issued the complainant Violation Tickets when he did not have reasonable grounds to believe an offence had been committed.</i> Defaults: Abuse of Authority Date of Incident: April 28, 2010 OPCC File 2010-5208	- o Advice as to future conduct - re understanding the essential elements of the statutes being enforced; and the requirement to complete appropriate notes relative to any enforcement action undertaken as a constable - o Direction to undertake training - re Motor vehicle related statutes relevant to traffic enforcement
<i>During a traffic stop, the officer threatened to use his baton to break the window of the complainant's vehicle.</i> Misconduct: Abuse of Authority Date of Incident: November 29, 2010 OPCC File 2011-6011	o Training / Re-training (In the areas of vehicle stops and authority to carry out searches without consent or warrant as well as grounds for impaired driving investigations. The training is to be overseen by the Sergeant in charge of training and to include an evaluation of the Member's understanding of lawful authority and reasonable grounds for searches of vehicles, persons and premises.)
<i>The officer had issued a Violation Ticket without grounds to believe the offence had been committed.</i>	o Written Reprimand

Misconduct: Abuse of Authority
Date of Incident: April 19, 2010

OPCC File 2010-5709

Central Saanich Police Service

The officer, while off duty, was pulled over and issued an Immediate Roadside Prohibition for being impaired and in a state of intoxication while driving.

- Written Reprimand
- 2 day suspension without pay

Defaults: Discreditable Conduct
Date of Incident: January 27, 2011
Ordered External Investigation – Request by Dept

OPCC File 2011-6092

While being investigated for impaired driving, the off-duty officer displayed his police badge in an effort to gain preferential treatment. The officer also used profane and discourteous language towards the investigating officer.

- Advice as to Future Conduct (re Corrupt Practice)
- Written Reprimand (x2) (re Improper Off-Duty Conduct)

Misconduct: Corrupt Practice
Improper Off-Duty Conduct
(re intoxicated in public place)
Improper Off-Duty Conduct
(re profane & discourteous language)

** This complaint was the subject of a Public Hearing. For a complete copy of the Adjudicator's Reasons, please visit the OPCC website – Hearings & Reviews (PH 2011-01)*

Date of Incident: July 22, 2009
Ordered Investigation – Request by Dept

OPCC File 2009-4966

OCABC

While off-duty, the officer was stopped for driving a motor vehicle while under the influence of alcohol and registered a "warn" on a roadside screening device. It was also found that the officer indicated he was a "member" in an effort to obtain favourable treatment.

- Verbal reprimand (re driving offence)
- Advice as to future conduct (re attempting to gain favour)

Misconduct: Discreditable Conduct (x2)
Date of Incident: December 5, 2010
Ordered Investigation – Request by Dept

OPCC File 2010-5922

Delta Police Department

The officer had placed himself under pecuniary obligations to individuals suspected of major stock market fraud and continued the association despite being directed not to; used department email server for

Allegation #1 (Discreditable Conduct):

- Work under close supervision for a period to be determined by the employer

purposes unrelated to his duties as a police officer; and discredited the reputation of the department by his actions and repeated misrepresentations.

Defaults: Discreditable Conduct (x2)
Corrupt Practice (x2)

Date of Incident: 2004 – 2010 (Notified Jan 7, 2010)
Ordered External Investigation – Request by Dept

OPCC File 2010-5036

Allegation #2 (Corrupt Practice):

- Direction to attend psychological and financial counselling for a period to be determined by the employer

Allegation #3 (Corrupt Practice):

- Written reprimand

Allegation #4 (Discreditable Conduct):

- 2-day suspension without pay
- Written reprimand

While off duty, the member had multiple encounters with female staff at a local restaurant that included unwanted physical contact, inappropriate comments and harassment.

Default: Discreditable Conduct
Date of Incident: Between Jan 2007 and April 2010
Ordered Investigation – Requested by Dept.

OPCC File 2010-5337

- Written Reprimand
- Direction to undertake training – re gender sensitivity and workplace harassment
- Direction to undertake counselling – as required by the employer related to alcohol
- 2 days suspension without pay

The officer placed a drug exhibit (marihuana leaf) in the police vehicle of another officer.

Default: Neglect of Duty
Internal Discipline

OPCC File 2010-5643

- Advice as to future conduct

While off duty but identifying himself as a police officer, the member spoke in a threatening manner to an employee of Revenue Canada.

Default: Improper Off Duty Conduct
Date of Incident: February 22, 2008
Ordered Investigation – Requested by Dept.

OPCC File 2010-5251

- Written Reprimand
- Apology letter

The officer was found to have aided in the misconduct committed by another member.

Default: Accessory to Misconduct
Date of Incident: August 1, 2010
Ordered Investigation – Requested by the Dept

OPCC File 2011-6184

- Written Reprimand
- Training re ethical decision making

<i>The officers entered the complainant's residence, without consent or warrant, and arrested the complainant's son without lawful authority.</i> Misconduct: Abuse of Authority (x2) Date of Incident: January 22, 2008 OPCC File 2008-4083T	- o Training re: search & seizure, entry into a private residence, the powers of arrest and circumstances when a warrant is required. - o Counselling – the substance, nature and duration to be determined by the psychologist. <i>* This complaint was the subject of a Public Hearing. For a complete copy of the Adjudicator's Reasons, please visit the OPCC website – Hearings & Reviews (PH 2009-02).</i>
<i>The officer, while off duty, drove a police vehicle for purposes unrelated to his duties as a police officer.</i> Misconduct: Improper Off-Duty Conduct Date of Incident: March 30, 2011 Internal Discipline OPCC File 2011-6414	o Verbal Reprimand
<i>Officers entered the complainant's residence, without consent or warrant, searched and seized marihuana plants without authority to do so.</i> Misconduct: Abuse of Authority Date of Incident: October 21, 2010 OPCC File 2010-5900	o Verbal reprimand
<i>While the complainant was handcuffed in the rear seat of the police vehicle, the officer used unnecessary force by holding him by the shoulders and shaking him.</i> Misconduct: Abuse of Authority Date of Incident: March 1, 2011 OPCC File 2011-6201	- o Written Reprimand - o Training (as determined by the employer)
Nelson Police Department	
<i>The member disclosed the complainant's criminal record to a third party without lawful authority.</i> Misconduct: Improper Disclosure of Information Date of Incident: June 2010 OPCC File 2010-5445	o Verbal reprimand

New Westminster Police Service	
<i>While off duty, the member used his police vehicle contrary to department policy</i> Internal Discipline Date of Incident: January 22, 2009 OPCC File 2009-4516T	o Written Reprimand
1. <i>The officer distributed sexually explicit emails within and outside the department.</i> 2. <i>The officer accessed CPIC, PRIME and an ICBC salvage yard for purposes unrelated to his duties as a police officer.</i> 3. <i>The officer inappropriately disclosed police information relating to a motor vehicle accident investigation.</i> Defaults: Discreditable Conduct Corrupt Practice (Unauthorized Use of Police Facilities/Resources) Improper Disclosure of Information Date of Incident: Between Nov 2006 and March 28, 2010 Ordered Investigation – Requested by Dept. OPCC File 2010-5679	Count 1: - o Written Reprimand Count 2: - o 5 days suspension without pay - o Transfer to administration division Count 3: - o 5 days suspension without pay (to run concurrent with suspension in Count 2) - o Transfer to administration division
<i>While off-duty, the officer was observed with a known sex trade worker.</i> Misconduct: Discreditable Conduct Date of Incident: April 29, 2011 Ordered Investigation – Requested by the Dept OPCC File 2011-6357	- o 1 day suspension without pay - o Counselling
<i>While off duty, the officer attended uninvited at a residence and engaged in an altercation and confrontation with 3 individuals.</i> Misconduct: Improper Off-Duty Conduct Date of Incident: July 26, 2008 Ordered Investigation – Requested by the Dept As a result of this investigation, a further misconduct was discovered: i. The officer had failed to properly notify his department of his change of address and information as required by departmental policy	- o Reduction in rank to pay and level of 2nd class constable for a period of 15 months - o Work under close supervision for a period of 15 months (the officer's working assignment is to be determined by the Chief Constable or his designate) - o Undertake training and re-training as directed by the Administration Division NCO's - o Undertake psychological counselling - o Review the department's policies

(Dealt with through the Internal Discipline stream) Misconduct: Discreditable Conduct ii. The officer was in possession of his departmental firearm while off duty and without permission. Misconduct: Discreditable Conduct iii. The officer had conducted unauthorized CPIC queries of his own licence plate for his personal vehicle. Misconduct: Discreditable Conduct iv. The officer had lost a seized knife that he had failed to turn into property services as required. Misconduct: Neglect of Duty Ordered Investigation – Requested by the Dept OPCC File 2008-4319 / 2009-4602	With respect to the allegation of Discreditable Conduct handled through Internal Discipline: o Advice as to future conduct (in conjunction with above measures)
<i>The officer had failed to properly turn in to property services 2 small bags believed to be hashish.</i> Misconduct: Neglect of Duty Date of Incident: January 2009 (Internal Discipline) OPCC File 2009-4596	o Written Reprimand
Port Moody Police Department	
<i>The member had his firearm in his holster while dealing with a prisoner in the cell block, against departmental policy and procedure.</i> Misconduct: Discreditable Conduct Date of Incident: November 30, 2010 (Internal Discipline) OPCC File 2011-6507	o Advice as to future conduct
<i>The officer had defaced a photograph of a colleague displayed in the department and wrote an obscenity in close proximity to the defaced photograph.</i> Misconduct: Discreditable Conduct Date of Incident: December 23, 2010 Ordered Investigation – Requested by the Dept OPCC File 2011-6055	- o Written Reprimand - o Meaningful & appropriate letter of apology

<i>The officer was untruthful to her supervisors regarding sick leave taken to care for a family member.</i> Misconduct: Discreditable Conduct Date of Incident: July 20, 2010 Internal Discipline OPCC File 2010-5499	o Advice as to future conduct
Saanich Police Department	
<i>The member failed to adhere to normal accepted canine training practice that resulted in injury to the complainant.</i> Default: Neglect of Duty Date of Incident: May 13, 2010 OPCC File 2010-5247	o Advice as to future conduct
<i>The member used his police vehicle for a purpose unrelated to his duties as a police officer.</i> Default: Corrupt Practice Date of Incident: March 25, 2010 OPCC File 2010-5398	o Advice as to future conduct
<i>The officer failed to attend scheduled traffic court, resulting in 3 of the 7 issued violation tickets being withdrawn.</i> Defaults: Neglect of Duty Date of Incident: July 20, 2010 Ordered Investigation – Requested by Dept OPCC File 2010-5682	o Advice as to future conduct
<i>The member accessed police databases to query associates of his estranged wife for purposes unrelated to the performance of his duties as a police officer. Further, the member disclosed to his estranged wife confidential information he had obtained from the queries.</i> Misconduct: Unauthorized Use of Police Facilities/Resources¹ Improper Disclosure of Information OPCC File 2011-6059	- o 2-day suspension without pay (re: unauthorized queries) - o 1-day suspension without pay, consecutive to the above suspension (re: disclosure of information)
<i>The officer neglected his duty by failing to attend Court as a police witness for an Impaired driving charge.</i>	o Advice as to future conduct

Misconduct: Neglect of Duty
 Date on Incident: January 7, 2011
 Internal Discipline

OPCC File 2011-6405-01

Relating to an investigation into a driving complaint, the officer failed to document his conversation with the suspect vehicle's registered owner and attempted to remove the registered owner's name and vehicle entities from the file.

- o 3 day suspension without pay (re Neglect of Duty)
- o 7 day suspension without pay (re Deceit)
 (concurrent to 3 day suspension)

Misconduct: Neglect of Duty (inadequate documentation/notes)
 Deceit (altering official record)
 Date of Incident: August 2011
 Ordered Investigation – Requested by the Dept

OPCC File 2011-6637

South Coast BC Transportation Authority Police Service (Transit Police)

The officer failed to provide assistance to a security guard restraining a suspect.

- o Suspended without pay for 1 day
- o Suspended without pay for 1 day

Default: Neglect of Duty
 Discreditable Conduct
 Date of Incident: February 20, 2010
 Ordered Investigation – Requested by Dept

OPCC File 2010-5108

The officer conducted an unauthorized search on police databases for purposes unrelated to his duties as a police officer.

- o Written Reprimand
- o Letter of apology

Default: Corrupt Practice (Unauthorized Use of Police Facilities/Resources)
 Date of Incident: May 2010

OPCC File 2010-5741

During the arrest of a young offender, the officer pointed and pressed the muzzle of his service pistol into the upper back area of the youth.

- o Training re: use of force tactics and procedures

Misconduct: Abuse of Authority
 Date of Incident: October 21, 2007

OPCC File 2008-4368T

St'tat'imx Tribal Police Service	
<i>After a prisoner was sprayed with Oleoresin Capsicum (pepper spray), the male was placed in a cell where he was left for over an hour without being decontaminated. Further, the officer failed to adequately report the incident as required by policy.</i> Misconduct: Neglect of Duty (x2) Date of Incident: December 26, 2009 OPCC File 2010-5415	- o Written reprimand - o Training re: policies & practices in the usage and follow-up care required for the deployment of OC spray - o Work under close supervision
Vancouver Police Department	
<i>During a traffic stop, two officers unlawfully arrested the complainant. One officer used unnecessary force and searched the complainant's vehicle without lawful authority.</i> Default: Abuse of Authority (unlawful arrest) Abuse of Authority (unnecessary force) Discreditable Conduct (search of vehicle) Date of Incident: February 16, 2009 OPCC File 2009-4542	- o Advice as to future conduct - o Training/Re-Training in tactical communication
<i>The officer failed to promptly and diligently disclose pertinent information regarding a motor vehicle collision to the supervisor. The supervising officer in turn neglected to assign the investigation to other officers and ordered the member to continue with the investigation and to write a report in circumstances where he knew a conflict of interest existed.</i> Default: Neglect of Duty (x2) Date of Incident: November 8, 2008 Ordered Investigation – Requested by the Dept OPCC File 2008-4427	o Written Reprimand (x2)
<i>While practicing dry-firing his service firearm in the men's locker room, the officer accidentally discharged a round.</i> Misconduct: Improper Use and Care of a Firearm Date of Incident: December 30, 2010 Internal Discipline OPCC File 2011-6012	o Training re firearms handling (The member was also removed from the ERT standing list)
<i>The members, while on duty, had an unauthorized passenger in the police vehicle and were involved in a motor vehicle accident.</i>	- o Advice as to future conduct - o Written Reprimand

Default: Discreditable Conduct Date of Incident: November 25, 2007 Ordered Investigation – Requested by the Dept OPCC File 2008-4211	
<i>The member did not follow the basic firearms practices of properly unloading the weapon prior to engaging the trigger mechanism during the disassembly process of the C-8 carbine.</i> Misconduct: Improper Use and Care of a Firearm Date of Incident: January 1, 2010 Internal Discipline OPCC File 2010-5386	○ Transfer/reassignment (returned to Patrol from the loan status to the ERT) ○ Work under close supervision (permitted to train with ERT under close supervision and eligible to compete for a position with ERT following 9 months)
<i>Member provided a confidential document to the media regarding an operational police plan for a public event.</i> Misconduct: Improper Disclosure of Information Date of Incident: June 23, 2011 Internal Discipline OPCC File 2011-6510	○ Suspended without pay for 4 days ○ Transferred to another position for 18 months, after which the assignment will be reviewed. (The member is also restricted on public order type callouts where an operation plan exists)
<i>The member attended for duty while intoxicated.</i> Default: Misuse of Intoxicants Date of Incident: February 12, 2010 Ordered Investigation – Requested by the Dept OPCC File 2010-5064	○ Suspended without pay for 2 days
<i>While dealing with the complainant for a bylaw offence, the member conducted unlawful pat-down searches of the complainant and his 2 companions, as well as a search of the complainant's backpack. In addition, the officer's conduct was unnecessarily discourteous.</i> Defaults: Abuse of Authority Discourtesy Date of Incident: April 18, 2010 OPCC File 2010-5186	○ Advice as to future conduct – re authority to conduct searches ○ Verbal Reprimand
<i>The member received information that a chronic offender was willing to provide information in exchange for consideration of a conditional sentence in lieu of facing a criminal trial. The subsequent actions by the member and promises he made to the information provider breached departmental policy and guidelines.</i>	○ Written reprimand ○ Advice as to future conduct – the member is not permitted to handle or co-handle sources, agents or information for a period of 3 years

Misconduct: Neglect of Duty

Date of Incident: February 10, 2009

"Internal Discipline"

OPCC File 2009-4625T

While off-duty and driving his personal vehicle, the member was pulled over for a Motor Vehicle Act traffic stop for having a broken rear tail light. The officer conducting the stop recognized the passenger as a local sex trade worker.

- o Written reprimand
- o Counselling – Attend and participate in an assessment session with appointed psychologist and undertake any recommended counselling or treatment.

Misconduct: Improper Off-Duty Conduct

Date of Incident: April 27, 2009

Ordered Investigation – Requested by the Dept

OPCC File 2009-4628T

Member violated VPD policy by taking his personal vehicle through the COV car wash. He also told the attendant that the vehicle was a loaner replacing a police vehicle damaged in the riot.

- o Written Reprimand

Misconduct: Discreditable Conduct

Date on Incident: June 27, 2011

Internal Discipline

OPCC File 2011-6612

The member had accessed police databases to conduct personal queries unrelated to his duties as a police officer. It was further found the member had between 2006 and 2011 seized numerous items that were not diligently processed as required by departmental policy and procedures.

- o Verbal reprimand (re unauthorized queries)
- o 5 – day suspension without pay (re Neglect of Duty)

Misconduct: Unauthorized Use of Police
Facilities/Resources¹
Neglect of Duty

OPCC File 2010-5344

The officer, while off-duty, was found driving his personal motor vehicle while under the influence of alcohol. The officer was served with a 24 hour prohibition and an administrative driving prohibition for 90 days.

- o 1 – day suspension without pay

Misconduct: Discreditable Conduct

Date of Incident: August 21, 2010

Ordered Investigation – Requested by the Dept

OPCC File 2010-5619

<i>The officer circulated an email to neighbours containing police information which had not first been vetted and/or endorsed by the police department of jurisdiction for release.</i> Misconduct: Improper Disclosure of Information Date of Incident: October 2010 OPCC File 2010-5880	○ Advice as to future conduct
<i>The officer was at home practicing dry firing with her firearm and accidentally shot a bullet into a wall at her residence.</i> Misconduct: Improper Use or Care of Firearms Date of Incident: December 1, 2010 Ordered Investigation – Requested by the Dept OPCC File 2010-5901	○ Written reprimand
<i>The officer had operated a motor vehicle while under the influence of alcohol and received an IRP for 90 days. The officer also identified himself as a police member in an attempt to seek preferential treatment.</i> Misconduct: Discreditable Conduct (x2) Date of Incident: April 18, 2011 Ordered Investigation – Requested by the Dept OPCC File 2011-6328	○ 2 – one day suspensions without pay
<i>While attempting to disperse unruly crowds outside a bar after closing, the officer used unnecessary force on two individuals by pushing them to the ground.</i> Misconduct: Abuse of Authority (x2) Date of Incident: August 23, 2009 OPCC File 2009-4856	○ Required to participate in a program or activity (develop and to participate in the delivery of a comprehensive training module to be delivered to all police supervisors, and potentially to all departmental police members, to convey the many valuable learning's that have been taken from this incident and its aftermath. The training module will be overseen by the department's Training Section.)
Victoria Police Department	
<i>Two members unlawfully detained, arrested, used unnecessary force and searched the complainant's vehicle. The officers also seized without authority the complainant's Firearms Possession & Acquisition License and used inappropriate language during the arrest.</i>	Discreditable Conduct (language): ○ Written Reprimand Discreditable Conduct (inaccurate reporting and preparation for Court) ○ Suspended without pay for 4 days

<i>One of the officers also was found to have written an inaccurate Report to Crown Counsel and failed to adequately prepare for Court.</i> Defaults: Abuse of Authority (arrest) Neglect of Duty (seizure of property) Discreditable Conduct (x2 – inappropriate language & inaccurate reporting and preparation for Court) Date of Incident: February 6, 2008 OPCC File 2009-4527	○ For a 12 month period, the officer will compile a log for each discretionary vehicle stop. The log will describe the grounds for the stop, action taken and responses. The Training NCO will review this process with the officer at regular intervals and may enlist the assistance of any subject matter experts as required.
<i>The member failed to properly monitor 2 prisoners in terms of frequency and adequacy. The member further made false entries into the jailer's log with respect to reported checks of the 2 prisoners.</i> Misconduct: Neglect of Duty Deceit (x2) Date of Incident: June 27, 2009 OPCC File 2009-4724-03	Re Neglect of Duty: ○ Written Reprimand Re Deceit (Count 1): ○ Suspended without pay for 5 days Re Deceit (Count 2); ○ Written Reprimand
<i>The member failed to account for property seized.</i> Default: Corrupt Practice Date of Incident: August 14, 1999 (disclosed October 2010) Ordered Investigation – Requested by the Dept OPCC File 2010-5698	○ Written Reprimand ○ Transfer / Re-assignment (with no eligibility for supervisory assignments until January 2012) ○ Repayment of \$20.00, with interest, to recognized charity
West Vancouver Police Department	
<i>The officer failed to make proper investigative notes during the course of a criminal investigation into a credit card fraud.</i> Default: Neglect of Duty Date of Incident: Between June 19 and Sept 3, 2008 Ordered Investigation – Requested by Dept OPCC File 2008-4390	○ 1 day suspension without pay ○ Required to work under close supervision for a period of 6 months and required to submit his notebook for review at such intervals as his supervisor requires.
<i>While off duty, the officer and two other off duty police officers assaulted a male who was delivering newspapers in downtown Vancouver. The officer was convicted of assault and sentenced to a 21 day jail sentence to be served in the community, with 6 months of probation to follow.</i> Misconduct: Improper Off-Duty Conduct (behaviour discreditable to the department)	○ 30 day suspension without pay ○ 1 year reduction in rank to 2nd class constable ○ Work under close supervision for a 1 year period ○ Undertake counseling as deemed necessary ○ Quarterly reports be provided by the

Improper Off-Duty Conduct (asserted authority as police officer) Conduct Constituting an Offence* (assault conviction) Date of Incident: January 21, 2009 * A discipline default under the previous legislation's Code of Professional Conduct Regulation. OPCC File 2009-4502	officer's supervisor The officer is also to find opportunities to describe his experience to new recruits or those hoping to make a career in police service - to deliver the message that police have an inherent duty to lead positive and responsible personal lives. <i>* This complaint was the subject of a Public Hearing. For a complete copy of the Adjudicator's Reasons, please visit the OPCC website – Hearings & Reviews (PH 2010-02)</i>
<i>Two members failed to adhere to pursuit policy by engaging in a pursuit contrary to department policy.</i> Misconduct: Neglect of Duty Date of Incident: December 3, 2010 Internal Discipline OPCC File 2011-6142	Officer #1: o Advice as to future conduct Officer #2: o Verbal Reprimand Officer #3: o Written Reprimand All members were required to review department policy re pursuit driving and tire deflation devices under the direction of a Staff Sergeant.
<i>During an arrest of a young woman for being intoxicated in a public place, the officer used unnecessary force by recklessly pulling her, causing to fall into a doorframe/wall. During a subsequent conversation between another officer and a civilian police communications operator on a recorded telephone line, the officer had made a derogatory remark about the young woman arrested for intoxication in a public place.</i> Misconduct: Abuse of Authority Discreditable Conduct Date of Incident: July 18, 2010 OPCC File 2010-5486	o Written Reprimand o Training / Re-training with respect to the National Use of Force Model; officer safety & tactical considerations when encountering resistant subjects; and Use of Force soft physical control force options with specific attention to transport & escort techniques of resistant subjects. o Advice as to future conduct (re Discreditable Conduct)
<i>The member's work performance, attitude and conduct towards the Department in recent years had deteriorated to a point where the employment relationship was irreparably breached.</i> Misconduct: Neglect of Duty Internal Discipline OPCC File 2011-6379	o Dismissal

<i>The member breached departmental policy by placing his Police Service dog in his back yard unattended whereupon he escaped through an open gate and was at large in the community for approximately 45 minutes.</i> Misconduct: Discreditable Conduct Date of Incident: November 9, 2010 Internal Discipline OPCC File 2010-5915	o Verbal Reprimand
<i>The officer failed to comply with policy relating to dog bites when he failed to report that his dog had bitten an off-duty colleague at an after shift party.</i> Misconduct: Neglect of Duty Date of Incident: April 2009 Internal Discipline OPCC File 2011-7038	- o Training / Re-training - o Advice as to future conduct
<i>While unloading a C8 patrol rifle, the member accidentally discharged a single round.</i> Misconduct: Improper Care and Use of a Firearm Date of Incident: April 9, 2011 Internal Discipline OPCC File 2011-6358	- o Advice as to future conduct - o Training/Retraining – re safe & proper procedure to follow when loading or unloading the C8 patrol rifle.
<i>Internal discipline investigation related to the member's conduct, attitude and ability or willingness to discharge his duties to the best of his ability. The officer had also made complaints against other officers he knew to be false.</i> Misconduct: Neglect of Duty Discreditable Conduct Internal Discipline OPCC File 2011-6379 / 2011-6479	o Dismissal

1. Under the present legislation, this type of misconduct is listed under s.77(3)(c) – "Corrupt Practice". The term "corrupt practice" is very inflammatory and has strong negative connotations that should be reserved for misconduct that is truly deserving of the term. The current definition of corrupt practice is extremely broad and captures misconduct that while still very serious in nature, does not warrant the significant designation of corruption – unless egregious circumstances exist. Therefore, for the OPCC's reporting purposes, we have identified this misconduct as Improper Use of Police Equipment and Facilities.